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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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NELSON QUINTANILLA, ALEJANDRO AMAYA, ALEX AMIR  
AREVALO, MAYNOR FAJARDO, WALTER GARCIA, JOSE L.  
MARTINEZ, PRACELIS MENDEZ, OSMAR W. PAGOADA,  
JAVIER QINTANILLA, EDWIN RIVERA, CARLOS ESCALANTE,  
KEVIN GALEANO, LERLY NOE RODRIGUEZ, JOSE VEGA  
CASTILLO, JUAN QUINTEROS, and MARCUS TULIO  
PEREZ,

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Plaintiffs,

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-against-

Case No:  
09-CV-5331

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SUFFOLK PAVING CORP., SUFFOLK ASPHALT CORP.,  
LOUIS VECCHIA, CHRISTOPHER VECCHIA,  
HELENE VECCHIA, and JOHN DOES 1-5,

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Defendants.

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-----X  
September 16, 2011  
9:20 a.m.

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4875 Sunrise Highway  
Bohemia, New York

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EXAMINATION BEFORE TRIAL of LERLY NOE

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RODRIGUEZ, one of the Plaintiffs herein, taken  
by the Defendants, pursuant to Article 31 of the  
Civil Practice Law and Rules of Testimony, and  
Notice and order, held at the above-mentioned  
time and place, before Karen LaMendola, a  
Professional Court Reporter and Notary Public of  
the State of New York.

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2 A P P E A R A N C E S:

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4 LAW OFFICES OF LAUREN GOLDBERG, PLLC  
5 Attorneys for Plaintiffs  
6 501 Fifth Avenue  
7 New York, New York 10017  
8 (NOT PRESENT)

8

9 LAW OFFICES OF PATRICK E. McNAMARA  
10 Co-Counsel for Plaintiffs  
11 868 Little East Neck Road  
12 West Babylon, New York 11704

13 BY: PATRICK E. McNAMARA, ESQ.

12

13 LAW OFFICES OF IAN WALLACE  
14 Co-Counsel for Plaintiffs  
15 501 Fifth Avenue  
16 New York, New York 10017  
17 (NOT PRESENT)

17

18 ZABELL & ASSOCIATES, P.C.  
19 Attorneys for Defendants  
20 4875 Sunrise Highway  
21 Bohemia, New York 11716

22 BY: SAUL ZABELL, ESQ.

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23 ALSO PRESENT:

24 Margarita Arias, Interpreter

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED  
by and between the attorneys for the  
respective parties herein, that filing,  
sealing and certification be and the same  
are hereby waived.

IT IS FURTHER STIPULATED AND AGREED  
that all objections, except as to the form  
of the question shall be reserved to the  
time of the trial.

IT IS FURTHER STIPULATED AND AGREED  
that the within deposition may be signed  
and sworn to before any officer authorized  
to administer an oath, with the same force  
and effect as if signed and sworn to before  
the Court.

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2 M A R G A R I T A A R I A S, the Spanish  
3 Interpreter herein, was duly sworn to  
4 interpret the questions from English into  
5 Spanish and the answers from Spanish into  
6 English to the best of her ability:

7 L E R L Y N O E R O D R I G U E Z, the  
8 Witness herein, having been duly sworn  
9 through the Interpreter, was examined and  
10 testified as follows:

11 EXAMINATION BY

12 MR. ZABELL:

13 Q Would you please state your full  
14 name for the record.

15 A Lerly Noe Rodriguez.

16 Q What is your current address?

17 A 18 Mindres Avenue, Brentwood,  
18 New York 11717.

19 Q Mr. Rodriguez, good morning.

20 A Good morning.

21 Q You understand you're at a  
22 deposition; correct?

23 A That's fine.

24 Q I'm going to be asking you  
25 questions. You are to listen to the interpreter

1 L. N. Rodriguez

2 before answering.

3 Do you understand?

4 A That's fine.

5 Q Do you speak Spanish?

6 A Yes, sir.

7 Q Do you understand what the  
8 interpreter is saying to you?

9 A Yes, sir.

10 Q Just answer the questions that are  
11 asked of you.

12 Do you understand?

13 A Yes.

14 Q Do you understand that it is your  
15 obligation to answer any question I ask of you?

16 A That's fine.

17 Q If you do not understand the  
18 question, you have an obligation to tell me that  
19 you do not understand that question.

20 A Okay.

21 Q Do understand that?

22 A Yes, that's fine.

23 Q If you provide an answer to a  
24 question I ask you, it will be assumed that you  
25 understood the question.

1 L. N. Rodriguez

2 Do you understand that?

3 A Yes.

4 Q Are you currently under the  
5 influence of any drugs?

6 A No.

7 Q Are you currently under the  
8 influence of any alcohol?

9 A No.

10 Q When was the last time you drank  
11 alcohol?

12 A I don't recall. I hardly drink.

13 Q You understand that you're  
14 required to tell the truth at this deposition?

15 A Yes, of course. I'm telling the  
16 truth.

17 Q If you do not tell the truth at  
18 this deposition, it will have the same effect as  
19 if you had told a lie at trial.

20 A That's fine.

21 Q Do you understand that there are  
22 ramifications for not telling the truth?

23 A Yes.

24 Q How did you get to this office  
25 today?

1 L. N. Rodriguez

2 A Because of the appointment, from  
3 the paper I was given.

4 Q What paper were you given?

5 A Where my appointment is today.

6 Q Who gave you that paper, and may I  
7 see that paper?

8 A My attorney gave it to me.

9 Q Can I see it, please?

10 MR. McNAMARA: Can I see it first,  
11 please?

12 A I think I left it in the car. Let  
13 me check to see if it's here. Here it is  
14 (handing); sorry.

15 MR. McNAMARA: It's just a notice.

16 MR. ZABELL: We're just going to  
17 mark this as an exhibit at today's  
18 deposition.

19 (The notice of deposition was  
20 marked as Defendants' Exhibit Number 10  
21 for identification, as of this date.)

22 Q The document that you reviewed to  
23 determine whether or not you were supposed to be  
24 here, is this the document that I just marked as  
25 Defendants' Exhibit 10?

1 L. N. Rodriguez

2 A Yes, that's correct.

3 Q Did you prepare for this  
4 deposition in any way?

5 A Well, I'm just here to answer you.

6 Q Listen to the questions before you  
7 answer them.

8 Did you prepare in any way for  
9 this deposition?

10 A If I prepared myself?

11 Q Did you prepare in any way?

12 A No. The only thing is I spoke  
13 about my problem with my attorney. That was it.

14 Q When?

15 A Yesterday. We had a meeting, and  
16 I was told that I only had to tell the truth and  
17 answer all the questions that were asked.

18 Q How long did you meet with your  
19 attorneys yesterday?

20 A Forty, a half hour.

21 Q Where did you meet with your  
22 attorneys?

23 A I think that's privileged.

24 Q You think incorrectly. Answer the  
25 question.



1 L. N. Rodriguez

2 A Well, we met at a restaurant;  
3 Starbucks.

4 Q Where?

5 A Westbury.

6 Q Mr. Rodriguez, it is not your job  
7 to think as to whether or not the questions I'm  
8 asking you are privileged. The fellow next to  
9 you with the beard is acting as your attorney.

10 Do you understand that?

11 A Yes.

12 Q Are we clear on that?

13 A Yes.

14 Q When you met with your attorney  
15 yesterday at Starbucks for thirty or forty  
16 minutes, did you review any documents?

17 A No, we only spoke about today's  
18 appointment because it's the first time.

19 Q What's the first time?

20 A The first appointment that I have  
21 about this case.

22 Q You never met with them before?

23 A Yes, of course.

24 Q So it wasn't the first time.

25 Why are you lying?

1 L. N. Rodriguez

2 A No, for me alone, it's the first  
3 time, but you didn't ask me if I met with the  
4 other people.

5 Q I asked you: Was this the first  
6 time you met with them, and you said, yes, and  
7 now you're saying no.

8 Are you having a hard time  
9 understanding the questions that are being asked  
10 of you?

11 A I understood that me, alone.

12 Q Why would you think that?

13 A I don't know. That's what I  
14 understood.

15 Q That's why it's very important  
16 that you only answer the questions that I ask of  
17 you. Don't provide answers to questions that  
18 you think I'm asking, only to questions that I  
19 am asking.

20 Do you understand that?

21 A Yes; correct.

22 Q You mentioned that you might have  
23 some papers in your car.

24 What kind of papers would you have  
25 in your car?

1 L. N. Rodriguez

2 A No, I said this paper  
3 (indicating). I wasn't talking about any  
4 others.

5 Q By "this paper," you're referring  
6 to Exhibit 10; is that correct?

7 A Excuse me?

8 Q By "this paper," you're referring  
9 to the document that's Exhibit 10; correct?

10 A Yes, the appointment, this  
11 appointment.

12 Q Did you drive here today?

13 A Yes.

14 Q Do you have a driver's license?

15 A Yes, I do.

16 Q May I see that driver's license?

17 THE WITNESS: Can I show him?

18 Q If I ask you, you can.

19 MR. McNAMARA: Let me see it,  
20 first.

21 MR. ZABELL: I am going to take a  
22 copy of this license and make a  
23 photocopy.

24 (A document consisting of a copy  
25 of Mr. Rodriguez's driver's license was

1 L. N. Rodriguez

2 marked as Defendants' Exhibit Number 11  
3 for identification, as of this date.)

4 Q I'm going to show you a document  
5 that I just marked as Defendants' Exhibit Number 11.

6 A What do I have to do with this?

7 Q You have to look at it, sir.  
8 That's why I said I'm going to show it to you.

9 A (Perusing.)

10 Q Do you know what that document is?

11 A It's a driver's license.

12 Q Whose driver's license is it?

13 A Mine.

14 Q Have you been sick lately?

15 A No.

16 Q Have you lost a lot of weight?

17 A Yes, I'm on diet.

18 Q Why?

19 A Because I want to feel good.

20 Q Because this person in this  
21 picture doesn't look like you at all.

22 A That's me.

23 Q It looks more like your lawyer  
24 than you.

25 A Now, I'm a 145 pounds, and there I

1 L. N. Rodriguez

2 was 178 pounds.

3 Q Are you sure that's you?

4 A (In English.) I am sure.

5 Q In Español, no English.

6 A I am sure, sir.

7 Q I don't believe you.

8 When was the first time you had a  
9 license to drive in the State of New York?

10 A I really don't remember well, but  
11 about nine years.

12 Q [REDACTED]

13 [REDACTED]

14 A [REDACTED]

15 [REDACTED]

16 Q [REDACTED]

17 [REDACTED]

18 A [REDACTED]

19 [REDACTED]

20 Q [REDACTED]

21 [REDACTED]

22 A [REDACTED]

23 Q [REDACTED]

24 [REDACTED]

25 [REDACTED]

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L. N. Rodriguez

[REDACTED]

MR. McNAMARA: I believe that any questions stemming from this are going to be subject to the protective order, and I have to instruct the witness not to answer.

MR. ZABELL: You believe incorrectly. I'm asking him about his driver's license and what he's testified about it.

MR. McNAMARA: But the answers themselves may lead to --

MR. ZABELL: No, they won't.

MR. McNAMARA: -- immigration status.

MR. ZABELL: No, they won't.

MR. McNAMARA: [REDACTED]

MR. ZABELL: No, I'm not.

MR. McNAMARA: -- the validity of

1 L. N. Rodriguez

2 his license.

3 MR. ZABELL: [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 Tell me if I'm wrong; doesn't it  
8 look more like you than it does like him?

9 MR. McNAMARA: I mean, I'm glad he  
10 lost a few pounds, but I think it looks  
11 just like him.

12 I think you're giving him a hard  
13 time right now.

14 MR. ZABELL: Madame Interpreter,  
15 do you think it looks like him?

16 MR. McNAMARA: It's him.

17 THE INTERPRETER: It's a much  
18 heavier person. That's all I can say.

19 MR. ZABELL: Thank you.

20 THE WITNESS: May I say something?

21 MR. ZABELL: No, you may not.

22 Madame Reporter, does it look like  
23 him?

24 THE COURT REPORTER: I can't tell.

25 MR. ZABELL: I don't think it

1 L. N. Rodriguez

2 looks like him.

3 Q You can give me those documents  
4 back whether they're yours or not.

5 A (Witness complies.)

6 MR. ZABELL: I guess a jury will  
7 decide whether it's him or not.

8 Q Okay. Mr. Rodriguez, have you  
9 ever gone by any other names?

10 A Noe.

11 Q I like that name. It sounds nice.

12 A Yes, because it's easier.

13 Q Easier than what?

14 A It only has three letters.

15 Q Okay.

16 Other than Lerly Noe Rodriguez,  
17 have you ever gone by any other names?

18 A Just nicknames they would give me  
19 at work.

20 Q What kind of nicknames?

21 A Mongolo.

22 Q Mongolo?

23 A Yes, sir; correct.

24 Q What does that mean? Why would  
25 they call you "Mongolo"?



1 L. N. Rodriguez

2 A Mongolo? I don't know why.

3 Can I say why?

4 Because my head is big. Even my  
5 boss, Chris, the one that I used to have, would  
6 call me like that.

7 Q Yes?

8 A Yes.

9 Q Are you currently employed?

10 A Yes.

11 Q Where are you currently employed?

12 A I'm working for a concrete  
13 company.

14 Q So you quit working for the  
15 defendants; correct?

16 A Yes, sir.

17 Q Where were you working last year?

18 A In Suffolk Asphalt Paving Corporation.

19 Q When did you start working at  
20 Suffolk Asphalt Paving Corporation?

21 A When I started in the union.

22 Q When was that?

23 A In 2007.

24 Q In 2007, you worked for  
25 Suffolk Asphalt Paving?

1 L. N. Rodriguez

2 A Yes.

3 Q Did you work anywhere else in 2007?

4 A I only worked at that company at  
5 that date.

6 Can I say something else?

7 Q No, you can answer my questions.

8 A Okay.

9 Q In 2007, did you work for anybody  
10 else, other than Suffolk Asphalt Paving; si or  
11 no?

12 A I don't recall. I worked driving  
13 a taxi three or four days.

14 Q What company did you work for?

15 A Taxi LaPaz.

16 Q Where did you drive a taxi?

17 A In Brentwood and Bay Shore.

18 Q Who was your boss?

19 A I don't know. I don't recall.

20 Q Were you paid in check or by cash  
21 from Taxi LaPaz?

22 A Paid in cash.

23 Q Did they fill out a W-4 Form for  
24 that?

25 A No, I didn't earn much.

1 L. N. Rodriguez

2 Q But you earned money?

3 A Maybe \$200.

4 Q Was that \$200 a shift?

5 A No, it's just that I hardly  
6 worked. It was only a couple of days.

7 Q Did you ever report that money on  
8 your income tax return?

9 A No, I didn't report it.

10 Q Did you file an income return  
11 for 2007?

12 A In 2007 --

13 Q Yes or no?

14 A I reported, but only with that  
15 company.

16 Q What company?

17 A Suffolk Asphalt Paving.

18 Q In 2008, who did you work for?

19 A Suffolk Asphalt Paving Corporation.

20 Q Was that the only company you  
21 worked for?

22 A Well, the checks only said that  
23 company, but there's another company there, as  
24 well.

25 Q But you only got paid from Suffolk

1 L. N. Rodriguez

2 Asphalt Paving; correct?

3 A Correct.

4 Q Did you do any side work in 2008?

5 A No. I don't recall.

6 Q You don't recall?

7 A No.

8 Q Which means you probably did, and  
9 you just don't remember?

10 A No, no, I didn't do it.

11 Q So if some of your coworkers said  
12 you did, they'd be lying; right?

13 A I don't know. I didn't do it. I  
14 don't remember. I can't say something that I  
15 don't remember.

16 Q So if some of your coworkers said  
17 you did, they would be lying; correct?

18 A I don't know. I don't recall. I  
19 can't say something that I don't remember.

20 Q In 2009, who did you work for?

21 A Suffolk Asphalt Corporation.

22 Q Did you work for anybody else  
23 in 2009?

24 A No, only for Suffolk Asphalt  
25 Paving Corporation.

1 L. N. Rodriguez

2 Q In 2010, who did you work for?

3 A Suffolk Asphalt Paving Corporation.

4 Q Did you work for anybody else  
5 in 2010?

6 A I worked for Taxi Universal.

7 Q Did you get paid in check or cash  
8 from Taxi Universal?

9 A Cash.

10 Q How many days did you work for  
11 Taxi Universal?

12 A The same. A short time; three,  
13 two, four days only.

14 Q Three, two, four, six, eight.  
15 Three, two, four days; right?

16 A But not in the same week.

17 Q Did you ever report that you  
18 received that money?

19 A I reported to unemployment; yes.  
20 I reported to unemployment that I had earned,  
21 because they ask you there if you earn anything  
22 in cash.

23 Q And you say you reported that to  
24 unemployment?

25 A Yes, they ask you there.

1 L. N. Rodriguez

2 Q In 2011, for whom did you work?

3 A Suffolk Asphalt Paving Corporation.

4 Q Did you work anywhere else in 2011?

5 A No.

6 Q Eh, eh, eh, eh. Tell the truth.

7 A The company where I'm working now.

8 Q Right.

9 Why were you hiding that?

10 A I just forgot for a second.

11 Q You forgot. I see.

12 You forgot after telling me just  
13 three minutes ago that you worked at another  
14 company; right?

15 A Yes, but I'm saying it. I'm  
16 rectifying it, that I am working for another  
17 company.

18 Q But you're only rectifying it  
19 after I called it to your attention; correct?

20 A No, I can't be perfect. I can't  
21 answer everything right.

22 Q You just started working for this  
23 company, and you can't remember that you work  
24 for them?

25 A Correct. It's just that that's

1 L. N. Rodriguez

2 the way it is.

3 Q How would you characterize your  
4 memory?

5 A It's good.

6 Q Clearly not, if you can't remember  
7 that you work for another company that you just  
8 started working at.

9 A I forgot.

10 Q You forgot?

11 A What can I do?

12 Q You can apologize, and tell me  
13 that your memory is not so good.

14 A I don't know.

15 Q You don't know if what I said was  
16 accurate?

17 A I just know that I feel fine.

18 Q When did you start working for  
19 this company?

20 A August 30, 2011.

21 Q What's the name of this company?

22 A (No verbal response.)

23 MR. ZABELL: Let the record  
24 reflect that the deponent who represents  
25 himself to be Lerly Noe Rodriguez, but

1 L. N. Rodriguez

2 bears no resemblance to the picture in  
3 the license, is riffling through his  
4 wallet and looking at a document.

5 A Capital Concrete of Long Island.  
6 Here it is (handing).

7 MR. ZABELL: No, no. All of it.

8 Let the record reflect that the  
9 individual has provided me with what  
10 appears to be three pay stubs from  
11 Capital Concrete of Long Island.

12 I'm going to make a copy of this.  
13 I will be right back.

14 (Whereupon, a short recess was  
15 taken at this time.)

16 A Okay.

17 Q Mr. Rodriguez, I'm giving you back  
18 your pay stubs (handing).

19 Have you received them back?

20 A Yes, that's the way you gave them  
21 to me. I have them folded.

22 MR. ZABELL: It's all right, big  
23 guy, I'm giving you copies.

24 MR. McNAMARA: It's all right.  
25 I'm just taking a look.



1 L. N. Rodriguez

2 (A document consisting of pay  
3 stubs from Capital Concrete of Long  
4 Island was marked as Defendants' Exhibit  
5 Number 12, for identification, as of this  
6 date.)

7 Q I'm going to show you a document  
8 that's been marked as Exhibit 13.

9 Take a look at the document in  
10 front of you.

11 A (Witness complies.)

12 Q Is that a copy of the three pay  
13 stubs you just showed me?

14 A Yes.

15 Q How did you end your employment  
16 with Suffolk Asphalt Paving?

17 A Because they left me at home a  
18 lot. They wouldn't give me work, and also, I  
19 was at home when most people were working, and I  
20 put my union on hold, and they said they were  
21 going to call me for another company.

22 Q Didn't you leave work saying you  
23 felt sick?

24 A No --

25 Q Eh, eh, eh; the truth.

1 L. N. Rodriguez

2 A I didn't say that I left because I  
3 was sick. I was sick the following day. I went  
4 to my doctor. The day after, I asked the person  
5 if they had called and asked them if there was  
6 work for me the following day, and they said no,  
7 so I called my union, and I put it on hold.

8 Q What day was that?

9 A It was on the 11th.

10 Q The 11th of what month?

11 A The month of August.

12 Q Are you saying you didn't work for  
13 Suffolk Asphalt Paving in September?

14 A No, I didn't work for Suffolk  
15 Asphalt Paving in September. I stopped working  
16 there in August, and I didn't say that.

17 Q Were you fired from Suffolk  
18 Asphalt Paving?

19 A Not directly, but indirectly.  
20 They were getting rid of me from the company.

21 Q Have you ever lied?

22 A Yes, of course, just like every  
23 human.

24 Q Do you lie to get what you want?

25 A No, I've never lied to obtain any

1 L. N. Rodriguez

2 benefit for myself.

3 Q Why would you lie?

4 A Well, maybe for a joke with a  
5 friend or something.

6 Q Did you ever lie to a woman?

7 A To my wife, yes.

8 Q Why?

9 A Because something personal.

10 Q I want to know what it is.

11 Please tell me.

12 A Like if she asks me where I am  
13 maybe because she doesn't like someone, I say  
14 I'm with someone else.

15 Q So you lie to keep yourself out of  
16 trouble?

17 A Yes, but something personal, not  
18 with my work.

19 Q So you never lied at work?

20 A At work? I don't think so.

21 Q You don't think so, but you're not  
22 sure?

23 A No, I don't think so. I don't  
24 think I lied, because if it's about the day I  
25 was sick, I have my medical prescription.

1 L. N. Rodriguez

2 Q What doctor did you go to?

3 A I have an eye doctor because I got  
4 a fever at night, and I woke up in the morning,  
5 and my eye was not right; the left side.

6 Q What's your eye doctor's name?

7 A Lacey Garcia. My prescription is  
8 here (handing).

9 Q Is this the day that you said you  
10 were sick?

11 A Yes, the 10th.

12 Q This is just an eye test.

13 A Yes, she did tests because I have  
14 two surgeries in my eyes.

15 Q What kind of surgery in your eyes?

16 A I have a contact lens inside my  
17 eye.

18 MR. ZABELL: I'm going to make a  
19 copy of this.

20 THE WITNESS: Okay.

21 (Whereupon, a short recess was  
22 taken at this time.)

23 (A one-page note was marked as  
24 Defendants' Exhibit Number 13, for  
25 identification, as of this date.)

1 L. N. Rodriguez

2 Q I'm going to show you a document  
3 that I just marked as Exhibit 13.

4 Is that the note that you just  
5 showed me?

6 A Yes.

7 Q You went and you got your eyes  
8 checked because you had a fever the night  
9 before; is that what your testimony is?

10 A That affected me, and I got a red  
11 spot on my eye because of it.

12 Q Because of the fever?

13 A Not necessarily, but I was  
14 affected by it.

15 Q That one too (indicating).

16 I make a mistake. The document  
17 that I just had you review, I'm going to change  
18 that to Exhibit 13.

19 Do you see that; Exhibit 13?

20 A Yes.

21 Q That's the doctor's note that you  
22 just gave me; correct?

23 A (No verbal response.)

24 Q Yes?

25 A (Nodding.)

1 L. N. Rodriguez

2 Q Verbally.

3 A Yes.

4 Q You have to answer verbally.

5 Do you understand?

6 A Yes, I understand.

7 Q You went and you got your eyes  
8 checked, and were you okay to return to work on  
9 the 10th?

10 MR. McNAMARA: Objection.

11 A The following day? The following  
12 day I was ready to work, but they didn't call  
13 me.

14 Q Did you call them?

15 A They never want you to call them.  
16 They always call us, and they didn't call me.  
17 They would call another person.

18 Q Who would they call?

19 A Juan Quinteros.

20 Q Isn't Juan Quinteros a better  
21 worker than you?

22 A I don't know. They would always  
23 call another person to tell us if we had to work  
24 the next day.

25 Q What telephone number did you give

1 L. N. Rodriguez

2 them?

3 A Excuse me?

4 Q What telephone number did you  
5 provide for them to call?

6 A They didn't have my telephone  
7 number.

8 Q Then, how were they going to call  
9 you?

10 MR. McNAMARA: Objection.

11 A Because they would call my  
12 coworker, and my coworker would call me.

13 Q Who was your coworker?

14 A Juan Quinteros.

15 Q Do you have a phone number?

16 A Yes, I have a phone number.

17 Q What is your phone number?

18 A My phone number is (631) 275-9678.

19 Q If I dial that, you're going to  
20 ring right now; right?

21 A I guess so, if there is a signal  
22 here.

23 Q How come you never provided your  
24 telephone number to your bosses?

25 A They were never concerned with

1 L. N. Rodriguez

2 asking me for it since they always called  
3 another person.

4 Q Do you live with Juan Quinteros?

5 A No, I don't live with him.

6 Q With whom do you live?

7 A With my wife.

8 Q Do you have any children?

9 A Two.

10 Q How old are they?

11 A Ten, eleven.

12 Q Boys, girls?

13 A No, girls.

14 Q When I asked boys or girls, you  
15 said no girls; right?

16 A No. Girls, girls.

17 Q What is your wife's name?

18 THE WITNESS: Can I say her name?

19 MR. McNAMARA: Yes.

20 Q You have to say her name when I  
21 ask you a question.

22 Do you understand?

23 You are not permitted to ask your  
24 attorney for help.

25 Do you understand?



1 L. N. Rodriguez

2 A Okay. Carmen Tavares.

3 Q Carmen Tavares Rodriguez?

4 A No, we're not married. We're  
5 just...

6 Q So she's not your wife?

7 A We're single. It's a free union.

8 Q Okay. Very avant-garde.

9 Have you ever been arrested?

10 A No.

11 Q Either in this country or in  
12 another?

13 A No, not in any other country,  
14 either.

15 Q What is your country of origin?

16 A Honduras.

17 Q When was the last time you were in  
18 Honduras?

19 A In December of last year.

20 Q Would that be December of 2009, or  
21 December of 2010?

22 A December of 2010.

23 Q For how long were you in Honduras?

24 A Five days.

25 Q Why were you in Honduras for five

1 L. N. Rodriguez

2 days?

3 A To see my mother. She was sick.

4 Q Is she better?

5 A She's receiving treatment.

6 Q I wish her good luck.

7 Before being in Honduras in  
8 December of 2010, when was the last time you  
9 were in Honduras?

10 A I don't understand the question.

11 Q In the past ten years, how many  
12 times have you gone to Honduras?

13 A I don't recall how many times;  
14 about four or three.

15 Q In the year 2010, how many times  
16 did you go to Honduras?

17 A Two times.

18 Q The second time was in December  
19 of 2010, so when was the first time?

20 A In -- at the end of June.

21 Q For how long were you in Honduras?

22 A Four days.

23 Q Why?

24 A To see my mother. She was sick.

25 The same thing.

1 L. N. Rodriguez

2 Q Isn't June paving season?

3 A For what?

4 Q Paving season.

5 A Yes, but I asked my boss for time.

6 Q Who was your boss?

7 A Louie Vecchia.

8 Q He said yes, you may go; correct?

9 A Yes.

10 Q That was nice of him; correct?

11 A Yes.

12 Q In 2009, did you go to Honduras?

13 A Yes.

14 Q When in 2009 did you go to

15 Honduras?

16 A In December, in December.

17 Q Only once in December?

18 A Only one time.

19 Q For how many days?

20 A Four or five days, I think.

21 Q Why did you go?

22 A I always go to see my mother.

23 That's the only thing that I have there. I go

24 and see my mother.

25 Q Did you only go once in 2009?

1 L. N. Rodriguez

2 A Only one time.

3 Q In 2008, did you go to Honduras?

4 A No, not in 2008.

5 Q In 2007, did you go to Honduras?

6 A No. I can't recall.

7 Q In 2007, did you leave the country  
8 at all; the country of the United States?

9 A What did you say?

10 Q In 2007, did you leave the  
11 United States?

12 A No, I don't recall. I don't  
13 remember that date.

14 Q In 2008, did you leave the  
15 country?

16 A You're asking me about 2009;  
17 aren't you? Or 2010, not 2008. I just said no.

18 Q 2008, did you leave the country?

19 A No, not in 2008. I said no.

20 Q No, you said no to Honduras. You  
21 could have gone someplace else other than  
22 Honduras; correct?

23 A No, I couldn't leave the state.

24 Q For example, one of your coworkers  
25 left the United States to go visit his

1 L. N. Rodriguez

2 girlfriend in Columbia, but that was not his  
3 nation of origin.

4 So I'm asking you if you left the  
5 country of the United States to go visit any  
6 place, other than Honduras in the years 2007  
7 and 2008?

8 A No, I only go to my country.

9 Q Do you have a passport?

10 A Yes, sir.

11 Q Does that passport have all the  
12 dates that you left the country?

13 A No. The passport that I have now  
14 is new.

15 Q Where is the old passport?

16 A The other one, the Consulate kept  
17 it.

18 Q What Consulate?

19 A Honduras.

20 Q Do you have ticket stubs showing  
21 when you left the country in 2009 and 2010?

22 A No, I don't have them.

23 Q Did you pay using a credit card?

24 A No, cash.

25 Q Where did you work in 2006?

1 L. N. Rodriguez

2 A I worked for me in Orlando,  
3 Florida.

4 Q What did you do for me in Orlando,  
5 Florida?

6 A I had my own construction company.

7 Q What was the name of that  
8 construction company?

9 A Noe Excellent Stucco.

10 Q In 2005, where did you work?

11 A In Orlando, Florida.

12 Q Same thing; your own stucco  
13 company?

14 A No, I worked for my brother.

15 Q What did your brother do?

16 A The same thing; stucco.

17 Q Did you ever sue your brother?

18 A No. He always paid me what he was  
19 supposed to pay me.

20 Q What was he supposed to pay you?

21 A For like driving people to work,  
22 picking up the materials, that.

23 Q Do you know who owns Suffolk  
24 Asphalt Paving?

25 A It's supposed to be Chris Vecchia

1 L. N. Rodriguez

2 from Suffolk Asphalt Paving.

3 Q Do you know if anybody else, other  
4 than Chris Vecchia, owns it?

5 A The father, Louis Vecchia. I only  
6 know those two people besides the accountant,  
7 and I don't know if the accountant...

8 Q Who is the accountant?

9 A His wife, I think; Helene Vecchia.

10 Q In 2007, how much did you make an  
11 hour at Suffolk Asphalt?

12 A Through the month of July, I  
13 earned \$22.50 an hour.

14 Q And after July?

15 A I started in the union, and I was  
16 earning \$42.28 an hour, or something like that.

17 Q That was a good raise; right?

18 MR. McNAMARA: Objection.

19 A Yes, because I have the union  
20 book.

21 Q Prior to July, you were paid  
22 \$22.50 an hour; correct?

23 A Yes.

24 Q And after July, you were paid  
25 \$42.28 an hour; correct?

1 L. N. Rodriguez

2 A Because that has to do with the  
3 union. We did State jobs and Town jobs.

4 Q Did you get paid in a check?

5 A Yes.

6 Q Did you get paid cash?

7 A Maybe two times a year; three or  
8 four. I don't recall, but not more than that.

9 Q Two, three, sometimes four times a  
10 year?

11 A Yes.

12 Q How much were you getting paid  
13 in cash?

14 A About a \$100. That's all the cash  
15 they paid; \$100, and that was maybe the four  
16 times that I was paid throughout the year; \$100  
17 for each time.

18 Q Do you know why you were paid in  
19 cash?

20 A Because they were overtime hours;  
21 I guess.

22 Q So you're guessing?

23 A I guess it's because of that.  
24 Because overtime hours, he didn't pay as he was  
25 supposed to.



1 L. N. Rodriguez

2 Q Well, you got paid checks for your  
3 pay; correct?

4 A Yes.

5 Q For every week?

6 A For every week.

7 Q Some of those checks indicated  
8 that you were paid overtime; correct?

9 A Some of them. Maybe one hour, two  
10 hours.

11 Q Some of those checks indicated you  
12 were paid for grease time; correct?

13 A Yes.

14 Q And you were paid that; correct?

15 A Yes, sometimes they would pay two  
16 hours, and sometimes nothing, but most of the  
17 time, they did pay me for greasing.

18 Q Are you familiar with the terms  
19 and conditions of your employment?

20 A The terms in what way? I don't  
21 understand.

22 Q Do you know what a collective  
23 bargaining agreement is?

24 A No, I don't know what that is.

25 Q Do you know if your union

1 L. N. Rodriguez

2 negotiated the terms of your employment?

3 A I don't know. I just don't  
4 understand the question.

5 Q Did you ever speak to anybody at  
6 your union?

7 A Only when I would go and pay my  
8 book.

9 Q So you never spoke to them about  
10 anything else?

11 A No. I would only go and pay that.  
12 Some coworkers would speak with them regarding  
13 them checking their work.

14 Q Did I ask you that question?

15 A You didn't ask me.

16 Q Then, why were you answering?

17 A I thought we were talking about  
18 that. I thought I was saying the correct thing.

19 Q We're not talking. I'm asking you  
20 questions. You're answering just the questions  
21 I ask you.

22 Do you understand?

23 A That's fine.

24 Q Do you really understand that?

25 A Yes, that's fine. That's fine.

1 L. N. Rodriguez

2 Q In 2008, do you know what your  
3 hourly rate was?

4 A About \$44 an hour.

5 Q That's what you were paid for an  
6 hour of your work?

7 A For one regular hour.

8 Q Right. And that's what you were  
9 paid for your hours of work?

10 A Yes, \$44 an hour.

11 Q That's reflected on your pay stub;  
12 correct?

13 A Yes, yes. That's there. It's  
14 just that I'm saying an approximate rate. I'm  
15 not sure because I don't have my stubs here.

16 Q You're not sure because your  
17 memory is not so good?

18 A I can't remember all of that.  
19 It's written down on paper.

20 Q The hours that you worked are  
21 written down on your pay stub; correct?

22 A The forty hours are written down,  
23 but not the overtime.

24 Q But didn't you say before that  
25 there was overtime written down on your check?

1 L. N. Rodriguez

2 A Yes, but two, three, and that's  
3 it, but it's not much.

4 Q Are you familiar with your union's  
5 rules on travel time?

6 A Travel time, what do you mean?

7 Q You have no idea what travel time  
8 is, do you?

9 A Time that you travel?

10 Q Do you not know what travel time  
11 is?

12 A It's just that I don't know if  
13 you're talking about work or driving.

14 Q Do you know what your collective  
15 bargaining agreement defines travel time as?

16 MR. McNAMARA: Objection.

17 A When you go from the yard to the  
18 job?

19 Q You don't get to ask questions.  
20 You just have to answer the questions.

21 A It's just that I don't understand  
22 the question. I don't understand.

23 Q I see.

24 So you don't know what your union  
25 contract says about travel time?

1 L. N. Rodriguez

2 MR. McNAMARA: Objection.

3 A It's just that I don't understand  
4 that about travel. Can you be more clear, more  
5 concise when you ask me?

6 Q How did you get to work every day  
7 at Suffolk Paving?

8 A It changed every day.

9 Q Sometimes you would go directly to  
10 a job site; correct?

11 A No, most of the time, I went to  
12 the yard.

13 Q How long would you be at the yard  
14 before you actually went to a job site?

15 A A half-an-hour.

16 Q Why would you go to the yard?

17 A Because I drove the box truck. I  
18 drove the box truck for two-and-a-half years.

19 Q Every day?

20 A Every day.

21 Q When you drove the box truck,  
22 would you sometimes pick up workers on your way  
23 to the job site?

24 A No, I would only pick them up at  
25 the yard.

1 L. N. Rodriguez

2 Q Why would you pick them up at the  
3 yard?

4 A Because that's where we would all  
5 get together and leave for the job sites.

6 Q Some people didn't have their own  
7 vehicles and couldn't drive to the work sites;  
8 correct?

9 A No, the thing is that we used to  
10 get together there before. That changed with  
11 time.

12 Q So you didn't always have to get  
13 together there before?

14 A Most of the time -- all of the  
15 time, we would go to the yard.

16 Q You just said that that changed;  
17 correct?

18 A (No verbal response.)

19 Q Correct?

20 A Yes, in 2010.

21 Q So you didn't always have to go to  
22 the yard; correct?

23 A Me?

24 Q All the workers.

25 A In 2010, that all changed. They

1 L. N. Rodriguez

2 all went to the jobs.

3 Q Did you eat breakfast today?

4 A Coffee.

5 Q Where did you get your coffee?

6 A At 7-Eleven.

7 Q You like 7-Eleven; right?

8 A Yes, I like it.

9 Q Some of your coworkers like  
10 7-Eleven coffee?

11 A I don't know what they like. I  
12 only know that I like coffee from 7-Eleven.

13 Q What about an egg sandwich; do you  
14 eat an egg sandwich in the morning?

15 A No, I just drink milk or coffee.  
16 I don't eat a lot in the morning.

17 Q Is that only because you're  
18 dieting now? Did you used to eat something in  
19 the morning?

20 A No, I didn't eat because I hardly  
21 had time in the morning. I would drive and eat  
22 at the same time.

23 Q Sometimes your coworkers would ask  
24 you to take them to a deli to get breakfast;  
25 right?

1 L. N. Rodriguez

2 A But I didn't do it because they  
3 would call me to tell me that we had to be at  
4 the job.

5 Q What if the GPS report shows that  
6 you would go to the deli for half-an-hour?

7 A No, we never went for a  
8 half-an-hour. Maybe two times a year.

9 Q Two times a year?

10 A Yes.

11 Q Remember before you just said you  
12 never did it, and now it's two times a year.

13 Why were you lying to me before?

14 MR. McNAMARA: Objection.

15 A No, it's just that it's not much.  
16 It's almost like nothing.

17 Q Who gets to make that  
18 determination?

19 MR. McNAMARA: Objection.

20 Q Me, you?

21 A I don't know. I'm giving my  
22 response.

23 Q Remember, let's try and keep your  
24 answers honest and accurate.

25 Do you understand?



1 L. N. Rodriguez

2 A (No verbal response.)

3 Q You need to answer verbally. You  
4 can't grunt. You have to use your words.

5 A (No verbal response.)

6 Q You have to use your words.

7 Do you understand?

8 A Yes, yes.

9 Q Now in 2009, how much were you  
10 paid an hour for your work?

11 A About \$45, around there.

12 Q How much were you paid per hour  
13 for overtime?

14 A Well, maybe out of the three or  
15 four times that they paid me, it was double  
16 time, which is \$90, or \$89, around there. I  
17 don't know.

18 Q In 2010, how much were you paid an  
19 hour for your time?

20 A \$47 an hour, or something like  
21 that, and overtime was like \$92.

22 Q So you were paid \$92 an hour for  
23 your overtime?

24 A Overtime; yeah.

25 Q In 2011, how much were you paid

1 L. N. Rodriguez

2 per hour?

3 MR. McNAMARA: Objection.

4 A This year?

5 Q What year is this?

6 A It's 2011.

7 Q So in 2011 --

8 A \$48, \$48.

9 Q How much were you paid an hour for  
10 overtime?

11 A Up to double time. \$92, I think,  
12 or \$96.

13 Q So in 2007, you were paid about  
14 \$22.50, before July, per hour of your work;  
15 correct?

16 A Excuse me?

17 Q In 2007, before July, you were  
18 paid about \$22.50 an hour for your work;  
19 correct?

20 A Yes, because I started the union  
21 in July.

22 Q And after July, you were paid  
23 \$42.28 per hour for your work; correct?

24 A In which one?

25 Q After July, in 2007.

1 L. N. Rodriguez

2 A They paid me with the union,  
3 because we started getting the school contracts  
4 and the Town contracts and the State contracts.

5 Q Just answer the questions that I  
6 ask you.

7 Do you understand?

8 A (No verbal response.)

9 Q Verbally.

10 A Yes.

11 Q After July of 2007, you were paid  
12 \$42.28 an hour for your work; correct?

13 MR. McNAMARA: Objection.

14 A (No verbal response.)

15 Q Yes or no?

16 A I said, approximately, \$42 --

17 Q Yes, approximately, \$42.28 an hour  
18 for all of your hours of work; correct?

19 A They would pay me \$48 an hour.  
20 That's regular pay.

21 Q In 2007, for your overtime hours,  
22 you were getting paid what rate per hour?

23 A The little bit that they paid me  
24 was about \$84 an hour.

25 Q Okay. So double that; correct?

1 L. N. Rodriguez

2 A Yes, double. That's what \$84 is.

3 Q In 2008, what were you paid per  
4 hour for your work?

5 MR. McNAMARA: Objection.

6 A \$44, we were saying, and  
7 something. That's what I just said.

8 Q In 2008, you were paid,  
9 approximately, \$44 and change for your work;  
10 correct?

11 A 2008, yes.

12 Q In 2008, what were you paid for  
13 your overtime work per hour?

14 A Well, the little that they paid me  
15 was \$40, \$90 -- no, excuse me, \$88; sorry.

16 Q In 2009, you were paid \$45 per  
17 hour for your work; correct?

18 MR. McNAMARA: Objection.

19 Q Yes or no?

20 A Yes.

21 Q In 2009, you were paid,  
22 approximately, \$90 an hour for your overtime  
23 work, correct?

24 MR. McNAMARA: Objection.

25 A Yes.

1 L. N. Rodriguez

2 Q In 2010, you were paid \$47 an hour  
3 for your work; correct?

4 MR. McNAMARA: Objection.

5 A Yes; correct.

6 Q And you said you were paid about  
7 \$92 an hour for your overtime work?

8 MR. McNAMARA: Objection.

9 A Something like that,  
10 approximately.

11 Q In 2007, how much overtime do you  
12 believe you're owed?

13 A You want me to be precise, or do  
14 you want me to explain?

15 Q Yes, I want you to be precise.

16 A How much didn't they pay me?

17 Q No. I believe they paid you  
18 everything.

19 How much are you claiming you're  
20 owed?

21 A For that whole year?

22 Q Yes.

23 A I guess they owe me for every  
24 week.

25 Q So you're just guessing?

1 L. N. Rodriguez

2 A No, it's a routine. It was a  
3 routine up to 2009.

4 Q So you're guessing at how much  
5 they owe you; correct?

6 A No, I'm not guessing. I'm saying  
7 it was a routine, something that was repeated  
8 every week.

9 Q Okay. So in 2007, what do they  
10 owe you?

11 A I don't have an exact calculation.

12 Q Do you have an approximate  
13 calculation?

14 A For 2007, I don't have -- \$25,000,  
15 something like that.

16 Q How do you get to the \$25,000?

17 A That's an approximation on it.

18 Q It's an approximation, based on  
19 what?

20 A On the hours that I work, and  
21 since the double -- the double time -- since  
22 they pay double time an hour, that's how I  
23 figured it out.

24 Q So how many hours do you think  
25 you're entitled to for 2007?

1 L. N. Rodriguez

2 A Right now, I don't know. It's  
3 approximate. I only know that from July to  
4 December, there are five months in the union.  
5 There -- it was about eighteen or sixteen hours  
6 overtime a week.

7 Q You're saying you never got paid  
8 any overtime in 2007; correct?

9 MR. McNAMARA: Objection.

10 A I didn't say that.

11 Q So you did get paid overtime in  
12 2007; yes or no?

13 A (No verbal response.)

14 Q Yes or no?

15 A (No verbal response.)

16 Q Yes or no?

17 MR. McNAMARA: Objection.

18 Q Yes or no?

19 A I said yes.

20 Q So you were paid overtime in 2007?

21 A Yes, three or four hours.

22 Q A week?

23 A A year.

24 Q Oh, a year?

25 You were paid three or four hours

1 L. N. Rodriguez

2 a year. You know you're lying.

3 MR. McNAMARA: Objection.

4 A Yes.

5 Q You were paid three or four hours  
6 a year?

7 You know you're lying now --

8 MR. McNAMARA: Objection.

9 Q -- because your pay stubs that you  
10 provided indicate something very different.

11 A That's what I remember.

12 Q So you remember a lie?

13 MR. McNAMARA: Objection.

14 A That's the response that I have.

15 Q So your response is a lie, you  
16 know that; right?

17 MR. McNAMARA: Objection.

18 A No, I'm saying what I have to say.

19 Q And what you have to say, you know  
20 to be a lie; correct?

21 A No. I'm saying four or five, or  
22 three or four hours, approximately.

23 Q You know that you provided  
24 documents to your attorneys that indicate that  
25 what your saying is not true.



1 L. N. Rodriguez

2 You know that; correct?

3 A (No verbal response.)

4 Q Yes or no?

5 MR. McNAMARA: Objection.

6 Q Yes or no?

7 MR. McNAMARA: We need to take a  
8 break.

9 MR. ZABELL: You can take a break  
10 after he answers the question.

11 Q Yes or no?

12 You provided documents to your  
13 attorneys that you know indicate that you  
14 received more than three or four hours for the  
15 year in overtime.

16 You know that; correct?

17 A I didn't say that they haven't  
18 paid those hours -- that they never paid. I  
19 didn't say that.

20 Q No, you just said you only got  
21 three or four hours a year in overtime; right?

22 A That's what it said, more or less,  
23 on the stub.

24 Q No, no, no, no, no. Your stubs  
25 show much more than that, so why are you lying

1 L. N. Rodriguez

2 now?

3 MR. McNAMARA: Objection.

4 Let's take a break.

5 MR. ZABELL: After he answers the  
6 question.

7 MR. McNAMARA: Okay.

8 Q Why are you lying now?

9 A I'm saying what I think is  
10 correct.

11 Q Your attorney has asked that you  
12 take a break.

13 I want you to ask your attorney  
14 about the penalties for perjury during that  
15 break.

16 Do you understand?

17 A Yes.

18 MR. ZABELL: You may go.

19 (Whereupon, a recess was taken at  
20 this time.)

21 Q You had a nice conversation with  
22 your attorney in the hallway?

23 A Yes, of course. He's my attorney.

24 Q Christopher Vecchia never called  
25 you to ask you to come back to work?

1 L. N. Rodriguez

2 A I didn't answer any of his calls,  
3 but I live in the basement, so my phone hardly  
4 gets a signal. I don't know if he called.

5 Q Wait a minute. You said you  
6 didn't answer any of his calls.

7 A I didn't answer any of his calls.  
8 I don't know if he called or not. I didn't look  
9 at my phone.

10 Q You haven't looked at your phone  
11 in the last month?

12 A Well, that day, I don't know  
13 because I was at home. I wasn't -- I wasn't --  
14 I was waiting for the time to pass to see if I  
15 should look for another job or something.

16 Q So on August 10th, you were in  
17 your basement all day; right?

18 A It's just that August 10th was the  
19 day where I had the appointment with the doctor.

20 Q Weren't you called by  
21 Christopher Vecchia on August 10th?

22 A No, he didn't call me.

23 Q What about August 11th?

24 A He didn't call me then, either.

25 Q What about August 12th?

1 L. N. Rodriguez

2 A He didn't call me. I didn't  
3 receive a call from him.

4 Q Wait a minute, wait a minute.

5 Didn't you just say that he called  
6 you, but you live in the basement, so you didn't  
7 return his phone calls?

8 A I didn't say that he called me.

9 Q Yes, you did.

10 A Why? Is my voice recorded there?

11 Q Every word you say is taken down;  
12 yes.

13 The record indicates that you said  
14 that he called --

15 A I'm talking about the call that he  
16 made.

17 Q When did he make that call to you?

18 A It's just that I don't know --  
19 tell me what day he called.

20 Q You tell me because you said you  
21 didn't answer the phone.

22 A I didn't receive not even one  
23 phone call. I didn't receive any calls. That's  
24 it.

25 Q Did your lawyer explain to you

1 L. N. Rodriguez

2 about perjury?

3 A He knows that I have to say the  
4 truth. He tells me to say the truth.

5 Q Do you know that you have to say  
6 the truth?

7 A Yes, of course. I'm telling the  
8 truth. That's why I'm here.

9 Q Do you remember testifying just  
10 before that you never called Christopher Vecchia  
11 back?

12 A I didn't call Christopher. He  
13 would always call the other person to call us.

14 Q And he would never call you?

15 MR. McNAMARA: Objection.

16 A No, he never called me.

17 Q Then, why did you say that you  
18 didn't call him back before?

19 A It's just that he didn't even have  
20 my telephone number. He didn't even have my  
21 phone number, because my friend told me that he  
22 was asking for my phone number.

23 Q Which friend was asking?

24 A Juan Quinteros.

25 Q So Juan Quinteros told you that

1 L. N. Rodriguez

2 Christopher Vecchia was looking for you?

3 A He told me that he was calling me,  
4 but I didn't receive any phone calls.

5 Q That was the evening of  
6 August 10th; correct?

7 A That was the evening of the 12th,  
8 in the evening. He said that he was calling,  
9 and I wasn't answering the phone.

10 Q You didn't tell me that before  
11 when I asked. Do you remember that?

12 MR. McNAMARA: Objection.

13 A Yes, but now you're asking me the  
14 questions in more detail.

15 Q What was some of the projects that  
16 you worked on in the year 2007 at  
17 Suffolk Asphalt?

18 A In Suffolk Asphalt, I worked on  
19 Carleton working on the water. It's the water  
20 company; putting stone down, and putting asphalt  
21 down.

22 Q Did you work anywhere else in  
23 2007?

24 A I don't remember right this  
25 second, but if I could think about it.

1 L. N. Rodriguez

2 Q Take your time. Think about it.  
3 We'll wait for you.

4 A I worked on some streets here on  
5 Motor Parkway. I remember one. The street is  
6 called Thomas. I think it belongs to either  
7 Hauppauge or Brentwood. I'm not really sure.  
8 Those are my first days in the union when I  
9 worked there.

10 Q We're giving you time to think.

11 MR. McNAMARA: Objection.

12 A All of those streets that are  
13 around there that are near Thomas, we did all of  
14 those streets within about a week-and-a-half.

15 Q In what month did you work for a  
16 week-and-a-half?

17 A It was when I started the union in  
18 July.

19 Q In August, what projects did you  
20 work on in 2007?

21 A I remember I worked in Bay Shore  
22 near Main Street, but I don't remember what  
23 streets they were.

24 Q Was that in August of 2007?

25 MR. McNAMARA: Objection.

1 L. N. Rodriguez

2 A In 2007.

3 Q In August of 2007?

4 A Yes. I already had the union at  
5 that time.

6 Q Other than a few streets in Bay  
7 Shore, do you remember --

8 A It was in July, the seventh month.

9 Q You need to listen to the question  
10 I ask you, and just answer the question.

11 Your lawyer will tell you that if  
12 you answer more than the question, you are doing  
13 my job for me, and you don't want to do my job  
14 for me; right?

15 I will not pay you to do my job  
16 for me.

17 A That's fine.

18 Q In August and only August of 2007,  
19 what projects did you work on?

20 A I'm saying that we did streets in  
21 Bay Shore near Main Street.

22 Q How many streets?

23 A I don't recall.

24 Q How many days did you work there?

25 A About a week-and-a-half,



1 L. N. Rodriguez

2 approximately.

3 Q How many hours a day did you work?

4 A I was working eleven, ten, nine.

5 It varied.

6 Q It varied.

7 It varied on the weather; right?

8 A Ten, eleven; yes. It all varied.

9 It wasn't the same every day.

10 Q And it varied, based upon the  
11 weather; right?

12 A Because on days that it rained --  
13 when it rained a little bit, we would work, but  
14 when it was heavy rain -- I can't remember which  
15 days it rained at that time.

16 Q But there was rain at that time;  
17 correct?

18 A Of course. There's always rain.

19 Q Right; always. Almost every week;  
20 right?

21 A Not every week.

22 Q But every month?

23 A It rains one day or a couple of  
24 days every month.

25 Q Did you keep a diary that showed

1 L. N. Rodriguez

2 us how many hours a day that you worked?

3 A What did you say?

4 Q Did you keep a diary that shows  
5 how many days a week you worked?

6 A (No verbal response.)

7 Q Yes or no?

8 A We have certain notes. We have  
9 some notes; yes.

10 Q Where are those notes?

11 A My attorney has them.

12 MR. ZABELL: We're going to make a  
13 demand for those notes.

14 MR. McNAMARA: Okay. I would  
15 appreciate it if there was a written,  
16 formal demand --

17 MR. ZABELL: I don't care what you  
18 appreciate. You were supposed to have  
19 turned these documents over, or your  
20 colleagues were supposed to have turned  
21 them over previously.

22 The fact that they didn't, and  
23 this individual testified as to their  
24 existence, indicates to me that this  
25 individual is going to have to be called

1 L. N. Rodriguez

2 back for another day of deposition once  
3 those notes are provided.

4 Do you understand, Counselor?

5 MR. McNAMARA: I understand that.

6 MR. ZABELL: Thank you.

7 MR. McNAMARA: So a formal demand  
8 for --

9 MR. ZABELL: This is the formal  
10 demand.

11 MR. McNAMARA: -- notes pertaining  
12 to hours worked?

13 MR. ZABELL: You may speak to you  
14 client outside of this room to get him to  
15 identify further exactly what he's  
16 talking about.

17 MR. McNAMARA: I mean, you're  
18 requesting them, so --

19 MR. ZABELL: I've already  
20 requested them.

21 MR. McNAMARA: Okay. You said  
22 we're going to make a formal request --

23 MR. ZABELL: No, I'm demanding  
24 that they be provided to us. We've  
25 already made a formal demand, Counselor.

1 L. N. Rodriguez

2 MR. McNAMARA: Okay. I'll speak  
3 to my colleagues and my client.

4 MR. ZABELL: Do you want to speak  
5 to them now while it's still somewhat  
6 fresh?

7 MR. McNAMARA: Yes, thank you.

8 (Whereupon, a recess was taken at  
9 this time.)

10 MR. ZABELL: Okay, have you got  
11 everything cleared up?

12 MR. McNAMARA: If we are in  
13 possession of any documents that have  
14 been previously demanded that have not  
15 yet been provided, they will be provided  
16 quickly, promptly.

17 Can we go off the record for a  
18 second?

19 MR. ZABELL: Yes.

20 (Whereupon, a discussion was held  
21 off the record.)

22 MR. McNAMARA: Madame Interpreter,  
23 please explain one more time that if my  
24 client doesn't understand a question, to  
25 say that he doesn't understand.

1 L. N. Rodriguez

2 THE WITNESS: That's fine.

3 MR. McNAMARA: Okay, we can  
4 proceed.

5 Q Did you report to the union that  
6 you were out of work?

7 A At what time?

8 Q Now.

9 A Right now?

10 Q Yes.

11 A No. Right now, I'm retiring from  
12 the union.

13 Q Does the union know that you were  
14 working for a nonunion company?

15 A That company was a small company,  
16 and you didn't need a union to work there.

17 Q That is a wonderful answer, but it  
18 is not the answer to the question that I asked  
19 you.

20 Are you purposely trying to avoid  
21 answering the questions I am asking you?

22 MR. McNAMARA: Objection.

23 A Okay, repeat it again, please.

24 Q No. Answer my question.

25 Are you purposely trying to avoid

1 L. N. Rodriguez

2 the questions I'm asking you?

3 A No. Ask me.

4 Q Do you have any friends who you  
5 work with now?

6 A Yes.

7 Q Who?

8 A Victor Quintanilla and  
9 Pracelis Mendez.

10 Q Did Pracelis Mendez help you get  
11 your job at Capitol Concrete?

12 A Yes.

13 Q Did you go from working directly  
14 from Suffolk Asphalt to Capitol Concrete?

15 MR. McNAMARA: Objection.

16 A No.

17 Q Did you report to the union that  
18 you were working at Capitol Concrete?

19 A (No verbal response.)

20 Q Yes or no?

21 A (No verbal response.)

22 Q Yes or no?

23 A No.

24 Q Do you know who DF Stone Contracting is?

25 A D-F?

1 L. N. Rodriguez

2 Q D-F.

3 A No, DF; I don't know what that is.

4 Q You never worked for a company  
5 called DF Stone Contracting?

6 A No, I don't know. I don't  
7 remember.

8 Q What is your Social Security Number?

9 A [REDACTED].

10 Q Are you sure?

11 A Yes, [REDACTED].

12 Q Is that the Social Security Number  
13 that you provided to Suffolk Asphalt?

14 A Yes, of course.

15 Q Is that the Social Security Number  
16 that you provided to Capitol Concrete of Long  
17 Island, Incorporated?

18 A I think --

19 Q Yes or no?

20 A I --

21 Q Yes or no?

22 A That was the one I gave them, but  
23 there was a confusion. Yes, I gave that company  
24 that number.

25 Q Is that the number that you

1 L. N. Rodriguez

2 provided to DF Stone Contracting?

3 A What I know is --

4 Q Yes or no?

5 A -- it's just that I know them by  
6 Capitol. I don't know them by DF. I don't know  
7 what that is.

8 Q Do you have any ability to answer  
9 the questions I ask you?

10 A It's just that I don't know what  
11 DF is.

12 Q Do you have any ability to answer  
13 the questions I'm asking you; yes or no?

14 A Not about DF; no.

15 MR. McNAMARA: Can we go off the  
16 record for a second?

17 MR. ZABELL: In a minute.

18 Q You understand that the questions  
19 that I'm asking you call for a yes-or-no answer;  
20 do you understand that; yes or no?

21 A Yes, yes.

22 Q When I ask you a question and say  
23 yes or no at the conclusion of that question,  
24 you have to answer that question with a yes or  
25 no.



1 L. N. Rodriguez

2 Do you understand that; yes or no?

3 A I didn't --

4 Q Yes or no?

5 A Yes, yes.

6 Q Let's try very hard to answer my  
7 yes-or-no questions with a yes or no.

8 Do you understand that; yes or no?

9 A Yes, yes; I understand it.

10 Q Okay. Now your lawyer wants to  
11 take a break with you.

12 MR. McNAMARA: I don't want to  
13 take a break. I just want to go off the  
14 record, and pretty much, restate what you  
15 just said.

16 Off the record.

17 (Whereupon, a discussion was held  
18 off the record.)

19 Q Mr. Rodriguez, if that is your  
20 name --

21 MR. McNAMARA: Objection.

22 Q -- do you speak English?

23 A I understand the main words at  
24 work.

25 Q Can you write in English?

1 L. N. Rodriguez

2 A A little.

3 Q Can you write in Spanish?

4 A Yes.

5 Q What is the extent of your  
6 education?

7 A High school.

8 Q Did you finish high school?

9 A No, I didn't finish.

10 Q In what country did you attend  
11 high school?

12 A Honduras.

13 Q How old were you when you came to  
14 the United States?

15 A Eighteen.

16 Q How did you communicate with your  
17 boss at Suffolk Asphalt?

18 A Like I said, I understand the main  
19 words at work. If he would tell me to go and  
20 roll something, I would understand, or if he  
21 told me to rake something, I understood that.  
22 Sweep, I understand all of that. All of the  
23 main words from work, I understand.

24 Q Did Louis Vecchia ever threaten  
25 you?

1 L. N. Rodriguez

2 A Yes.

3 Q How did he threaten you?

4 A Once he wanted me to sign a paper  
5 from a job, and I said that I didn't understand  
6 what was said on the paper, and he said that I  
7 if I didn't sign it, I had to leave the job.

8 Q That was the only time he  
9 threatened you?

10 A Other times -- since I'm in  
11 Local 138, I'm only supposed to drive machines,  
12 and they always made me use the power tamper,  
13 which is a hand machine, the torch, a broom, and  
14 if I didn't do it -- they would say to me if I  
15 didn't want to stay home, that I would have to  
16 do it.

17 Q Are those the only times he  
18 threatened you?

19 A Well --

20 Q Yes or no?

21 A That was the only time; yes.

22 Q Did Christopher Vecchia ever  
23 threaten you?

24 A The same. With the power tamper  
25 and the broom. I was told, did I want to go

1 L. N. Rodriguez

2 home or did I want to do it.

3 Q Those were the only times you were  
4 threatened when you worked at Suffolk Asphalt;  
5 is that correct?

6 A Yes.

7 Q Was Louis Vecchia a good boss?

8 A I hardly had communication with  
9 him. We almost always spoke about work things.

10 Q Did he ever punch you?

11 A No.

12 Q Did he ever beat you?

13 A No.

14 Q Did he smile when you spoke to  
15 him?

16 A Sometimes.

17 Q Did he ever call you names?

18 A He would call me Noe. Chris was  
19 the one that would call me Mongolo.

20 Q Were you offended by any of the  
21 names that they called you?

22 A No, that offend me.

23 Q Did they treat you like a friend?

24 A Sometimes, and sometimes I didn't  
25 feel that way.

1 L. N. Rodriguez

2 Q Sometimes they treated you like an  
3 employee; right?

4 A Yes.

5 Q Which was okay, because you were  
6 an employee; right?

7 A It was fine?

8 Q Correct.

9 A That's your question?

10 Q Yes.

11 A How is it going to be okay if they  
12 leave me at home without working for several  
13 weeks, for a whole week, two weeks?

14 Q Maybe you should have called  
15 Christopher Vecchia back.

16 A He knows that I needed the work.  
17 He knows that I know the work well.

18 Q Maybe you should have called him  
19 back, and you would have been able to work, but  
20 you didn't call him back; correct?

21 A I feel discriminated against.

22 Q Of course.

23 They discriminated against you  
24 why; because you're Hispanic?

25 MR. McNAMARA: Objection.

1 L. N. Rodriguez

2 A Yes.

3 Q Yes?

4 A Yes.

5 Q So they're treating you  
6 differently because you're Hispanic?

7 A Or maybe because of the lawsuit.  
8 I never asked them why.

9 Q Were you Hispanic when they hired  
10 you?

11 MR. McNAMARA: Objection.

12 A I'm Hispanic. I'm a good worker.  
13 They needed a good worker.

14 Q Just answer the question.  
15 Were you Hispanic when they hired  
16 you?

17 MR. McNAMARA: Objection.

18 A Of course.

19 Q And all of your coworkers are  
20 Hispanic; right?

21 MR. McNAMARA: Objection.

22 A Yes.

23 Q Okay. So they really weren't  
24 discriminating against you because you're  
25 Hispanic; correct?

1 L. N. Rodriguez

2 MR. McNAMARA: Objection.

3 A No, I'm saying myself.

4 Q You're saying yourself that you  
5 were discriminated against because you're  
6 Hispanic; right?

7 A Most of the people in my union are  
8 white or American from here. Another American  
9 guy came to work, so then I saw that they  
10 weren't going to call me anymore. I felt less  
11 at that point.

12 Q So the union was discriminating  
13 against you?

14 A No, the union never discriminated  
15 against me.

16 Q But you're saying Suffolk Asphalt  
17 discriminated against you; right?

18 A Because the day after when I was  
19 sick, they didn't call me. That person was  
20 working with three machines and I was home.  
21 They didn't call me to work, so what can I  
22 think?

23 Q So you think that was because  
24 you're Hispanic; right?

25 A Not only because I'm Hispanic.

1 L. N. Rodriguez

2 Maybe because of me, myself, or maybe because of  
3 what we did. Maybe it was a retaliation.

4 MR. McNAMARA: Off the record for  
5 a minute.

6 MR. ZABELL: With regard to what?

7 MR. McNAMARA: I was just about to  
8 say --

9 MR. ZABELL: No. Well, this is on  
10 the record, so say it because I'm not a  
11 big fan of going off the record.

12 MR. McNAMARA: We can continue on  
13 the record. That's fine.

14 MR. ZABELL: Good.

15 Q You think you've been mistreated  
16 in the United States because you're Hispanic;  
17 right?

18 A No. There are a lot of good  
19 people here. This country is my second nation  
20 and I'm grateful.

21 Q Do you think that Louis Vecchia  
22 took advantage of you because you're Hispanic?

23 A Since we never complained, but you  
24 get tired sometimes from so much abuse.

25 Q But you just said he never abused



1 L. N. Rodriguez

2 you. He treated you nicely.

3 MR. McNAMARA: Objection.

4 Q Did didn't you just testify to  
5 that?

6 A Me --

7 Q Didn't you just testify to that?

8 A Myself --

9 Q I'm only talking about you.

10 A -- regarding the work, just for  
11 myself.

12 Q Do you understand that there's a  
13 difference between work and vacation?

14 A Yes.

15 Q And you don't get paid to go to  
16 vacation?

17 A No, they don't pay me.

18 Q That's right.

19 You get paid to work; correct?

20 A Yes.

21 Q And you have to produce;  
22 otherwise, it's not worth it to hire you;  
23 correct?

24 A Yes.

25 Q You called working abuse; right?

1 L. N. Rodriguez

2 A No. I'm talking about the hours  
3 that they haven't paid us. I'm not talking  
4 about working. If they have me there to work, I  
5 work, and I've always done that. I'm talking  
6 about the hours that they haven't paid me for.  
7 That's an abuse.

8 Q You got a paycheck every week;  
9 correct?

10 A Yes, for the regular hours. And  
11 what about the overtime hours?

12 Q Sometimes those checks indicated  
13 overtime hours; did they not?

14 A Sometimes.

15 Q Yes or no?

16 A Yes.

17 Q Okay.

18 When is the paving season?

19 A April to December.

20 Q In the beginning of paving season,  
21 you don't always work every day; correct?

22 A Prior years when we started, we've  
23 always worked quite a lot, but not this year.  
24 This year, I didn't work much.

25 Q Again, a wonderful answer, but not

1 L. N. Rodriguez

2 the answer to the question that I asked you.

3 Do you understand what I'm saying?

4 A Yes. You're telling me that  
5 that's not the response.

6 Q Do you agree that it's not the  
7 response?

8 A I thought that was the response.

9 Q Do you not understand the  
10 questions I'm asking you?

11 A Yeah, I understand. That's the  
12 way that I'm understanding it.

13 Q In the beginning of the season, do  
14 you typically work every day of the week?

15 A If there's no rain, yes, we work.

16 Q In December, do you typically work  
17 every day of the week?

18 A We always work up to the 23rd of  
19 December. There was a recess, and then we  
20 worked another two days later, and then that was  
21 the end of the season.

22 Q What if it snowed in December,  
23 could you work in the snow?

24 A We worked in the snow. I didn't  
25 work much for this company when it snowed. It

1 L. N. Rodriguez

2 was a little, it was a little, and just in  
3 January and in February, very little, very  
4 little.

5 Q Do you know a fellow by the name  
6 of Maynor Fajardo?

7 A Yes, he was our foremen.

8 Q Is Maynor Fajardo an honest man?

9 A He's a coworker, and he likes to  
10 joke around. That's everything. That's all I  
11 can say.

12 Q So he's not always truthful and  
13 honest; correct?

14 A If he has to tell you truth, he  
15 tells you the truth.

16 Q And if he doesn't have to tell you  
17 the truth, he'll lie to you?

18 A No, it's odd for him. It's not  
19 normal for him to tell lies.

20 Q But sometimes he does?

21 A Like all humans.

22 Q You know, not all humans lie.

23 MR. McNAMARA: Objection.

24 A Okay. I don't know of anyone.

25 Q All the people you know lie?

1 L. N. Rodriguez

2 MR. McNAMARA: Objection.

3 A Not everyone lies at the same  
4 level.

5 Q Do your daughters lie to you?

6 A I guess they did, but I don't  
7 realize it.

8 Q Does your wife lie to you?

9 A I guess so, but I don't realize  
10 it.

11 Q Do you lie to her?

12 A I said that I did. I said that I  
13 lied to her.

14 Q Did you ever lie to  
15 Maynor Fajardo?

16 A Just joking around. Just joking,  
17 though, but not about work.

18 Q Did Maynor Fajardo ever lie to  
19 you?

20 MR. McNAMARA: Objection.

21 A No. I don't remember that he ever  
22 lied to me.

23 Q Did you ever borrow money from  
24 Suffolk Asphalt?

25 A No, I never received a favor like

1 L. N. Rodriguez

2 that.

3 Q Do you know if Maynor Fajardo did?

4 A I heard something, but I never saw  
5 anything. I never saw him get paid or anything.

6 Q What did you hear?

7 A I don't know. According to him,  
8 he had gotten paid. That's what I heard. I  
9 never really listen to other people's problems.

10 Q You're saying that, according to  
11 him, he had gotten paid?

12 A What I remember is that they had  
13 given him a truck, and he was paying it off.  
14 That's what I remember.

15 Q Do you know if he paid that truck  
16 off?

17 A I think he had paid almost the  
18 whole thing, but then they took it away from  
19 him.

20 Q Do you know why they took it away  
21 from him?

22 A What I realize was that he was  
23 traveling. I don't know.

24 Q When was he traveling?

25 A I don't know. I don't remember.

1 L. N. Rodriguez

2 I'm not really interested in other people's  
3 personal problems.

4 Q Do you know how long he was  
5 traveling for?

6 A No, I don't recall.

7 Q Was he gone for one month?

8 MR. McNAMARA: Objection.

9 A No, I don't recall.

10 MR. McNAMARA: Objection.

11 Q Was he gone for two months?

12 MR. McNAMARA: Objection.

13 A I don't recall. I really don't  
14 remember about that.

15 Q Do you know if he was gone for one  
16 month, two months, or seven months?

17 MR. McNAMARA: Objection.

18 A I don't know. I don't remember.

19 Q Do you know why he was gone?

20 A According to what he said, he was  
21 going to see his mother.

22 Q Did he tell you he was going to  
23 see his girlfriend, as well?

24 MR. McNAMARA: Objection.

25 A No, I don't know anything about

1 L. N. Rodriguez

2 that.

3 Q Do you know if he had a  
4 girlfriend?

5 A I don't know. I don't know. I  
6 don't know anything personal about him.

7 Q Do you know if he had a girlfriend  
8 in Columbia?

9 MR. McNAMARA: Objection.

10 A That's not his country; right?  
11 Isn't Guatemala his country?

12 Q Are you asking me, or are you  
13 telling me?

14 A That's the answer that I'm giving  
15 you. I don't know if he's from Columbia or from  
16 Guatemala. He's from Guatemala.

17 Q Would it be strange for someone  
18 from Guatemala to have a girlfriend in Columbia?

19 MR. McNAMARA: Objection.

20 A I don't know. I've never looked  
21 at his trips or anything like that.

22 Q Do you have a Colombian  
23 girlfriend?

24 A No, I have a wife here.

25 Q So does he.



1 L. N. Rodriguez

2 A I have a wife here. I don't have  
3 a girlfriend in another country.

4 Q Do you know if Louis Vecchia or  
5 Christopher Vecchia ever lent money to anybody  
6 else that you worked with?

7 A I don't know. I really don't know  
8 anything about that.

9 Q Do you know if they lent money to  
10 Pracelis Mendez?

11 MR. McNAMARA: Objection.

12 A No, I don't know about that.

13 Q You never discussed that with  
14 Pracelis Mendez?

15 A He has been -- he doesn't really  
16 talk about his personal problems to other  
17 people. For example, we're coworkers, but we  
18 hardly speak.

19 Q Didn't he help you get your job?

20 A That's why. That's about work.

21 Q He didn't tell you that  
22 Louis Vecchia lent him money for a down payment  
23 on his house?

24 A No, he hasn't said anything.

25 Q He lent him \$25,000.

1 L. N. Rodriguez

2 MR. McNAMARA: Objection.

3 A I have no idea.

4 Q That's pretty generous of  
5 Louis Vecchia; don't you think?

6 MR. McNAMARA: Objection.

7 A Maybe. If he lent it to him, let  
8 him say it, but I don't know.

9 Q How much are you looking for in  
10 the lawsuit against Suffolk Paving?

11 A I want what's fair.

12 Q How much is fair?

13 A For me, fair would be the hours  
14 that are close to the hours that we've worked.

15 Q How much?

16 MR. McNAMARA: Objection.

17 A I don't have an approximation.

18 Q Why not?

19 A I have a paper at home, but I  
20 don't have it in my mind.

21 Q What does that paper at home say?

22 A It's like a statement from all the  
23 years, the hours.

24 Q Who prepared that statement?

25 A I did it myself.

1 L. N. Rodriguez

2 Q Did you review that document  
3 before you came here today?

4 A No, that's why I don't remember.

5 Q Did you provide that statement to  
6 your attorneys?

7 A They know more or less about that.  
8 They know.

9 Q Did you provide that statement to  
10 your attorneys?

11 MR. McNAMARA: Objection.

12 This is covering attorney/client  
13 privilege.

14 MR. ZABELL: No, it's not. Think  
15 about it. I'm asking if he provided it  
16 to his attorneys.

17 A I don't know --

18 Q Yes or no?

19 A -- the approximate amount that I  
20 made.

21 Q Yes or no, did you provide that  
22 document to your attorneys; yes or no?

23 A Yes, yes, yes, I did.

24 Q Why did you prepare that document?

25 A Because I want to get what I think

1 L. N. Rodriguez

2 is just.

3 Q Did anybody ask you to prepare  
4 that document?

5 A No, I did it myself personally.

6 MR. ZABELL: We made a demand for  
7 documents that match the description of  
8 this document.

9 This is a document that he just  
10 testified that he prepared by himself  
11 without the request of his attorney.  
12 We're entitled to a copy of this  
13 document. I'm demanding a copy of this  
14 document.

15 MR. McNAMARA: Okay. And as we  
16 previously stated --

17 MR. ZABELL: I strongly suggest  
18 that you send him home during the break  
19 to get this document so that we do not  
20 have to bring him back so that he does  
21 not lose another day of work.

22 Why don't you take a minute to  
23 discuss it with him.

24 MR. McNAMARA: Okay. We'll step  
25 outside.

1 L. N. Rodriguez

2 (Whereupon, a recess was taken at  
3 this time.)

4 Q Mr. Rodriguez, you know where this  
5 document is at home; correct?

6 A Yes, I have it where I have my  
7 things, my personal things.

8 Q In your house in Brentwood;  
9 correct?

10 A Yes.

11 Q The basement you talked about  
12 before; correct?

13 A Yes.

14 Q Your house is about ten minutes  
15 away from here; correct?

16 A No, it's further.

17 Q Fifteen minutes?

18 A Fifteen, or twenty minutes.

19 Q During lunch, I want you to go  
20 home and get that document. This way, you won't  
21 lose another's day work by having to come back.

22 Do you understand?

23 MR. ZABELL: Do not help him.

24 Q Do you understand?

25 A Yes.

1 L. N. Rodriguez

2 Can't I do it now? I can do it

3 now --

4 Q You want to do it now?

5 Go ahead.

6 A -- because I did it myself.

7 Q Go ahead.

8 A I need a pencil.

9 Q No, I want to see this document  
10 that you said you produced.

11 A It's done by hand. That document  
12 that I have, it's not done by typewriter or  
13 computer. It's written by hand. It's done by  
14 hand.

15 Q That's fine.

16 That's the document that you  
17 should have turned over before that I have a  
18 right to see, and I'm just trying to save you  
19 from having to miss another day's work.

20 Didn't your lawyers tell you that  
21 you had to provide that document before?

22 A No, because it's an approximation.  
23 It's not something that's exact.

24 MR. ZABELL: It doesn't matter.

25 You can go ahead and get it now.

1 L. N. Rodriguez

2 I'll adjourn for an hour until you  
3 go get it, we can take our lunch break,  
4 and you can go get it; okay?

5 THE WITNESS: Yes.

6 MR. ZABELL: Go ahead.

7 THE WITNESS: (Nodding.)

8 Q Is that a yes?

9 A Yes.

10 MR. ZABELL: Okay, go ahead.

11 MR. McNAMARA: Off the record.

12 MR. ZABELL: Do you want to go off  
13 the record, Counselor?

14 He just said yes, that he  
15 understands, and he wants to go get it.

16 MR. McNAMARA: I just want to talk  
17 to him, and I don't feel like talking --

18 MR. ZABELL: Why don't you jump in  
19 the car with him. You can go get it with  
20 him.

21 Let's break for lunch. We'll meet  
22 back at 1:30.

23 MR. McNAMARA: Okay, fine.

24 (Whereupon, a luncheon recess was  
25 taken from 12:10 p.m. to 1:40 p.m.)

1 L. N. Rodriguez

2 Q You had a good lunch?

3 A Yes.

4 (A handwritten document was marked  
5 as Defendants' Exhibit Number 14, for  
6 identification, as of this date.)

7 Q I'm going to show you a document I  
8 just marked as Defendants' Exhibit 14.

9 A Yes.

10 Q That's the document you just went  
11 home and got; right?

12 A Yes.

13 Q That's the document with all your  
14 calculations on it; right?

15 A Yes.

16 Q When did you create this document?

17 A Yesterday, yesterday.

18 Q Didn't you testify that it was a  
19 couple of weeks ago that you created this  
20 document?

21 MR. McNAMARA: Objection.

22 A No, I didn't say that before. I  
23 didn't give a time, only that I had a  
24 calculation.

25 Q I have the record, sir.



1 L. N. Rodriguez

2 You didn't say that you prepared  
3 that calculation a couple of weeks ago?

4 A No, I didn't give a time.

5 Q In 2002, who did you work for?

6 A Suffolk Paving Corporation.

7 Q What did you do for them?

8 A I started as a laborer, and  
9 half-a-year later, I started as a roller.

10 Q How much did you make in 2002?

11 A I was earning \$15 an hour.

12 Q What kind of jobs were you doing?

13 A First, I did labor, and then, I  
14 started as a roller with the machine.

15 Q You were paid by check for all the  
16 work you performed; correct?

17 A Correct.

18 Q In 2003, who did you work for?

19 A Suffolk Paving Corporation.

20 Q You worked for Suffolk Paving  
21 Corporation throughout your entire history from  
22 2002 all the way to 2009; right?

23 A No. I worked for Suffolk Paving  
24 Corporation 2002 until 2004.

25 Q In 2003, how much were you paid an

1 L. N. Rodriguez

2 hour?

3 A The first half of the year, they  
4 paid me \$15, the same as 2002. The rest of the  
5 year, they paid me \$20 an hour.

6 Q You got paid a check for all your  
7 hours worked; correct?

8 A Yes, correct.

9 Q In 2004, who did you work for?

10 A Suffolk Paving Corporation.

11 Q How much did you get paid an hour  
12 in 2004?

13 A Until halfway through 2003, I  
14 earned the same \$20 an hour, and then the rest  
15 of the time, they raised me to \$22.50.

16 Q You got paid by check for all the  
17 hours you worked for Suffolk Paving in 2004;  
18 right?

19 A Yes, in check.

20 Q In 2005, you went away; correct?

21 A Yes, I left in 2005. I only  
22 worked like two days, and then, I was absent. I  
23 left for two years; 2005, 2006.

24 Q That's when you went to work for  
25 your brother and then for yourself; right?

1 L. N. Rodriguez

2 A Yes.

3 Q For the short period of time you  
4 worked in 2005, you also got paid by check;  
5 correct?

6 A For Suffolk Corporation?

7 Q For Suffolk Paving.

8 A Yes, they paid me about two days  
9 that I worked in 2005 by check. It was in  
10 January of 2005, the last two days or something  
11 like that.

12 Q In 2005, you got paid by check for  
13 the hours that you worked; correct?

14 A Yes, correct.

15 Q From 2002 through 2005, you worked  
16 for Suffolk Paving; correct?

17 A Yes.

18 Q And as you testified, you got paid  
19 in a check for the hours that you worked for  
20 them; correct?

21 A For the forty regular ones.

22 Q And you never got paid any  
23 overtime in a check; correct?

24 A Some hours.

25 Q And you only worked some overtime

1 L. N. Rodriguez

2 hours; correct?

3 MR. McNAMARA: Objection.

4 A No, no. It's always the same. We  
5 did pretty much overtime.

6 Q You did pretty much overtime;  
7 that's what you're testifying?

8 A Yes.

9 Q How are you calculating overtime?

10 A I calculate it because a month has  
11 four weeks, and the month has thirty days, but  
12 I'm taking away two days. The overtime, I  
13 didn't calculate on sixty hours that a week has,  
14 but I calculated it on fifty-six. I rounded it.

15 Q So you're saying that every week  
16 you worked, you worked sixteen hours overtime?

17 A I calculated that according to the  
18 weeks that I went over twenty.

19 Q The weeks that you went over  
20 twenty what?

21 A When I work for Suffolk Paving,  
22 there were weeks that we worked seventy. There  
23 were times, not every week.

24 Q When do you think you earn  
25 overtime payments?

1 L. N. Rodriguez

2 A After the forty hours.

3 Q So you're saying you didn't get  
4 overtime after forty hours worked in a week?

5 A Yes, that's correct. It's after  
6 forty hours, and it's time-and-a-half.

7 Q Were there some weeks that you  
8 worked for Suffolk Paving that you didn't work  
9 more than forty hours in a week?

10 A That's why I figured it out by  
11 using fifty-six per week.

12 Q Did you work fifty-six hours every  
13 week that you worked for Suffolk Paving?

14 A Not exactly. That's an  
15 approximation what you see there.

16 Q What weeks in 2002 did you work  
17 fifty-six hours for Suffolk Paving?

18 A I don't recall that week. It was  
19 a long time ago.

20 Q What weeks in 2003 did you work  
21 fifty-six hours?

22 A I don't recall that.

23 Q What weeks in 2004 did you work  
24 fifty-six hours?

25 A I don't recall. I don't remember

1 L. N. Rodriguez

2 that.

3 Q What weeks in 2007 did you work  
4 fifty-six hours?

5 A I don't recall.

6 Q What weeks in 2008 did you work  
7 fifty-six hours?

8 A I don't recall.

9 Q What weeks in 2009 did you work  
10 fifty-six hours?

11 A I don't remember that.

12 Q You can't remember what weeks you  
13 worked fifty-six hours; correct?

14 A Yes, but can I explain why.

15 Q No.

16 A Okay. Then, I don't remember.

17 Q You don't remember.

18 What do you remember?

19 MR. McNAMARA: Objection.

20 A Because it's the same thing every  
21 week, the same routine.

22 Q Even if you get sent home early  
23 for rain?

24 A That's why I'm calculating  
25 fifty-six, an approximation.

1 L. N. Rodriguez

2 Q And you did it for twelve months  
3 out of the year?

4 A No, for nine.

5 Q For nine?

6 A Yes.

7 Q This is all you came up with was  
8 Exhibit 14; correct?

9 A That's the only thing that I've  
10 calculated on my own.

11 Q Did you use a calculator?

12 A Yes.

13 Q Did you ever provide this to your  
14 attorney?

15 A He saw it, but he doesn't have  
16 that paper because I made it yesterday.

17 Q Who is the "he" that you're  
18 referring to?

19 A My attorney.

20 Q Who?

21 A Ian Wallace.

22 Q Not the fellow next to you?

23 A No, no. This is the first time  
24 that I've met him.

25 Q He's a nice enough guy; right?

1 L. N. Rodriguez

2 A Yes.

3 Q What's his name?

4 A Patrick.

5 Q Patrick what?

6 A Only Patrick. I don't know. I  
7 only know Patrick.

8 Q He won't tell you his last name or  
9 you can't remember it?

10 A I only know him as Patrick.

11 Q You can't remember his last name?

12 A No, I don't recall.

13 Q When did he tell you his last  
14 name?

15 A He hasn't told me. I only know  
16 his first name.

17 MR. ZABELL: Counselor, have you  
18 told your client your last name?

19 MR. McNAMARA: I gave him my card.  
20 I don't recall specifically giving him my  
21 last name.

22 Q Did he give you his business card?

23 A Yes, but I haven't looked at it.

24 Q Really? You were playing with it,  
25 and you were staring at it before.



1 L. N. Rodriguez

2 A I was playing with it, but I  
3 wasn't looking at it.

4 Q What years did you work for  
5 Suffolk Paving?

6 MR. McNAMARA: Objection.

7 A For Suffolk Paving?

8 Q Yes.

9 A I worked 2002, 2003, 2004, and two  
10 days or three days in 2005. Yes, correct,  
11 that's what I have.

12 Q In 2007, who did you work for?

13 A For Suffolk Asphalt Paving.

14 Q Is that the same company?

15 A No, it's the union company.

16 Q Are you sure?

17 A Yes, Suffolk. That's what I have  
18 in my records.

19 Q How did you find your current  
20 attorney, Mr. Wallace?

21 A How did I find him for the first  
22 time? What is the question?

23 Q Yes.

24 A A friend of ours related to what  
25 we have here. He's not involved, though.

1 L. N. Rodriguez

2 Q What's his name?

3 A I don't know. His name is like  
4 Juan. I don't really know him that well. I  
5 don't know him very well by name.

6 Q I thought he was a friend of  
7 yours.

8 A Yes, he was, but I don't know his  
9 name very well.

10 Q What did he tell you?

11 A He gave us his number; the  
12 attorney's number.

13 Q Why?

14 A Because he thought he was a good  
15 attorney.

16 Q And you don't remember his name?

17 A No, I don't know his exact name.

18 Q Did Christopher Vecchia ever leave  
19 you a telephone message?

20 A When?

21 Q The end of August.

22 A No, I don't have a message.

23 Q Did you delete it?

24 A No, I don't have a message.

25 Q Does your wife play with your

1 L. N. Rodriguez

2 phone?

3 A No.

4 Q Do your kids play with your phone?

5 A Never.

6 Q If I have phone records that show

7 he left a message, you'd be lying; correct?

8 MR. McNAMARA: Objection.

9 A Do it. I'm sure he didn't.

10 Q If he left a message at 275-9678,

11 that would be your telephone number; right?

12 MR. McNAMARA: Objection.

13 A 275-9678.

14 Q Answer the question.

15 MR. McNAMARA: Objection.

16 A That is my telephone number.

17 Q If he left a message on that

18 number, you would have gotten it; right?

19 A What did you say?

20 Q If he left a message at that

21 number, you would have gotten it?

22 A Yes, of course. I look at my  
23 messages, but sometimes I don't get them because  
24 of the signal.

25 Q But if you don't get them right

1 L. N. Rodriguez

2 away, you get them later on; right?

3 A Yes, or sometimes I don't even  
4 notice. I don't really check my phone much.

5 Q So before when you just said you  
6 check your messages, you were lying?

7 A No, no. I said that I haven't  
8 seen any message from him. That's what I said.

9 Q Do you check your messages; si or  
10 no?

11 A Sometimes I don't look at them.  
12 Sometimes I don't look. Sometimes I forget.

13 Q So you don't always check your  
14 messages; correct?

15 A Not always; no.

16 Q So Christopher Vecchia may have  
17 left you a message; correct?

18 A No, I didn't see any message from  
19 Chris Vecchia.

20 Q But you don't always look; right?

21 A It's just that I'm telling you  
22 that I haven't seen any, and maybe I didn't look  
23 at it that time since I don't look at them all  
24 the time.

25 Q Did your attorney convey to you

1 L. N. Rodriguez

2 that there was a settlement offer in this case?

3 A That's why we're in the case,  
4 because they're trying to help us. We're trying  
5 to settle.

6 Q Did anybody tell you that somebody  
7 offered money to you to settle?

8 A No, I'm doing it for my own  
9 initiative.

10 Q Did your lawyers tell you that  
11 there was a settlement offer in this case?

12 A No, my attorneys have told me that  
13 they haven't wanted to offer anything.

14 Q So your attorneys did not tell you  
15 that Suffolk Asphalt offered some money to  
16 settle this case?

17 A No, they haven't said anything  
18 about that. The only thing they said was that  
19 the boss didn't want to fix everything.

20 Q It appears that you're being lied  
21 to, sir, because for purposes of settling this  
22 case, Mr. Vecchia did offer your attorneys some  
23 money to settle.

24 I'm disappointed that they  
25 concealed that from you. I strongly suggest

1 L. N. Rodriguez

2 that you contact them or alternate counsel to  
3 ensure that you are being fully and  
4 appropriately represented.

5 A I trust them.

6 Q Really? Because they spoke to you  
7 yesterday; correct?

8 A Yes.

9 Q And they never told you yesterday  
10 that there was a settlement offer; correct?

11 A No. Because what we spoke about  
12 was today's conversation.

13 Q You know they have an obligation  
14 to reveal to you a settlement offer; correct?

15 MR. McNAMARA: Objection.

16 A I guess they're waiting for the  
17 appropriate moment to get us all together and to  
18 tell us all.

19 Q They don't have that right, sir.  
20 They have an obligation to reveal this to you.

21 Do you know why they are  
22 concealing it from you?

23 MR. McNAMARA: Stop. I keep  
24 trying to get you to stop.

25 MR. ZABELL: No, I'm entitled to

1 L. N. Rodriguez

2 ask the question. I'm not going to stop.

3 MR. McNAMARA: I've tried to have

4 you stop --

5 Q Do you know why they're concealing  
6 this information from you?

7 A No, I don't know.

8 Q I strongly suggest to you that you  
9 try and find out from them.

10 Now your lawyer wants to interrupt  
11 me now.

12 Should we allow him to interrupt  
13 us?

14 A He is my attorney. He has the  
15 right to speak.

16 Q So you want me to allow him to  
17 speak?

18 A Yes.

19 Q Okay. But before I do that, maybe  
20 you should ask him about the settlement offer.

21 Go ahead, you may. You may ask  
22 him.

23 A I have to ask him?

24 Q Yes.

25 A How can I?

1 L. N. Rodriguez

2 My English is not so good.

3 Q I don't know. It's not my job to  
4 help you.

5 A But then, I would have to call the  
6 other ones.

7 Q Go ahead. You may.

8 A There's no signal here. How can I  
9 do it?

10 Q Speak to your attorney. He'll  
11 advise you.

12 MR. McNAMARA: Can we please go  
13 off the record for a second?

14 MR. ZABELL: Yes.

15 (Whereupon, a discussion was held  
16 off the record.)

17 MR. McNAMARA: I need to request a  
18 recess at this time so that I can call my  
19 office.

20 MR. ZABELL: That's fine. Go  
21 ahead.

22 (Whereupon, a recess was taken at  
23 this time.)

24 MR. ZABELL: What was the last  
25 question?



1 L. N. Rodriguez

2 (Whereupon, the requested portion  
3 of the record was read by the court  
4 reporter.)

5 Q Did you speak to your attorney?

6 A Yes.

7 Q Did he clear up why everything was  
8 being concealed from you?

9 A He cleared it up because it wasn't  
10 him that they offered it to. It was  
11 Pracelis Mendez that they offered it to.

12 Q No, that's not true.

13 So he lied to you?

14 MR. McNAMARA: Objection.

15 A He said that it was a confusion, a  
16 confusion. It was Louis Vecchia who spoke with  
17 Mendez and offered him a certain amount.

18 Q And your lawyer knew that?

19 A No, it's just that it was a  
20 confusion. It seems that they offered it to  
21 Mendez, not to the attorneys.

22 Q No, that's not true.

23 Do you know how much your lawyers  
24 asked for in settlement on your behalf?

25 A No, I don't know exactly.

1 L. N. Rodriguez

2 Q They didn't tell you that they  
3 made a two-and-a-half million dollar demand?

4 A Yes, for everyone; yes.

5 Q They did tell you that?

6 A Yes, but that's not my exact  
7 amount, not just for me. That's for everybody.

8 Q What is your exact amount?

9 A My amount is about two hundred  
10 thirteen, around there. That's my personal  
11 approximation. That's mine.

12 Q Your personal amount is two  
13 hundred thirteen, but the amount that you wrote  
14 down on Exhibit 14 is \$172,000; correct?

15 MR. McNAMARA: Objection.

16 A Well --

17 Q Correct?

18 A I --

19 Q Si or no?

20 A Yes, yes; correct.

21 Q You're not sure how much you want?

22 A I'm not sure exactly how much it  
23 is.

24 Q Did you ever get paid double time  
25 when you were working for the defendants?

1 L. N. Rodriguez

2 A Double time?

3 Q That was the question I asked you.

4 A For my union, yes. With my union,  
5 yes.

6 Q So the union paid you?

7 MR. McNAMARA: Objection.

8 A No, it's just that I work through  
9 the union, and they're the ones who give me the  
10 check.

11 Q So the union pays you?

12 A No, Suffolk Asphalt Corporation  
13 was paying me.

14 Q Well, do you work for Suffolk  
15 Asphalt, or do you work for the union?

16 A No, the union is for -- to give  
17 the rules about the payments and all of that.

18 Q What are the rules about the  
19 payments?

20 A That after forty hours, you have  
21 to pay double time. That's what Local 138 is.  
22 I don't know what the other one is.

23 Q Are you familiar with any other  
24 unions?

25 A Just 1298; laborers.

1 L. N. Rodriguez

2 Q But you were not in 1298; correct?

3 A I'm in 138.

4 Q Do you know what any other rules  
5 are from the union regarding your pay?

6 A Regarding my pay or my rights?

7 Q Either/or.

8 A I have the right for them to pay  
9 me my holidays, rain dates, sick days, my  
10 vacation. That's what it is. If there is  
11 anything between me and my boss, any offense, I  
12 should tell them.

13 Q Did you follow those instructions?

14 A I did not follow them. I did not  
15 follow them.

16 Q Why did you not follow them?

17 A I wanted to keep my job in the  
18 first place and maybe because of ignorance or  
19 maybe because I could not find another job  
20 quickly. I didn't know. I had never been  
21 working at any other company doing that kind of  
22 work.

23 Q Do you know Renato Guerra?

24 A Yes.

25 Q Who is Renato Guerra?

1 L. N. Rodriguez

2 A Guerra, he's the foreman.

3 Q Do you know who Maynor Fajardo is?

4 A He is the same one, I think.

5 Isn't it?

6 Q Do you know why he has two  
7 different names?

8 A No, I don't know. I don't know  
9 why.

10 Q Is he the same person?

11 A I think so.

12 Q What do you call him?

13 A Renato.

14 Q Did you work with Renato?

15 A Yes. I worked for a long time  
16 with him in his group.

17 Q Do you know what time he would  
18 come to work in the morning?

19 A There were times when he would go  
20 earlier because he painted lines.

21 Q Again, a very nice answer, just  
22 not the answer to the question I asked you.

23 MR. McNAMARA: Objection.

24 Q Do you know what time he went to  
25 work?

1 L. N. Rodriguez

2 MR. McNAMARA: Objection.

3 Q Yes or no?

4 A Okay, okay. At 6:00, 5:30, 6:00,  
5 5:30 -- when he finished work at 6:00, 7:00 --  
6 it varied, depending on the day that he was  
7 working.

8 Q So the answer to my question would  
9 be: Yes, you do know what time he went to work?

10 A Not every day. I wasn't with him  
11 every day.

12 Q How do you know what time he went  
13 to work?

14 A I know of those days, because I  
15 was driving the company pickup truck with him.

16 Q So you drove him in the truck?

17 A No. That was when I worked for  
18 Suffolk Paving Corporation. When I started  
19 working for Suffolk Asphalt Corporation, I used  
20 to drive the box truck, and before, for a  
21 year-and-a-half, I drove the pickup truck.

22 Q Was he in the truck with you?

23 A Not in the box truck.

24 Q Was he in the pickup truck with  
25 you?

1 L. N. Rodriguez

2 A In the pickup truck in the  
3 year-and-a-half that I was driving, he was with  
4 me.

5 Q Did you get to take that pickup  
6 truck home?

7 A Yes. I would take it to his  
8 house, and I would take it home, because he  
9 didn't have a license at that time and I did  
10 have one.

11 Q When do you believe you stopped  
12 working the days that you would drive him home?

13 A Those days -- I never took those  
14 days or those hours into account in my  
15 calculations.

16 Q So the only hours you took into  
17 account in your calculations were the hours that  
18 you actually worked on the job; correct?

19 A Yes. At the jobs and when I would  
20 get to the yard.

21 Q Are you including travel time in  
22 your calculations?

23 MR. McNAMARA: Objection.

24 A No, from the house to work. No.

25 Q You're only calculating the time

1 L. N. Rodriguez

2 that you are on the worksite; correct?

3 A Only --

4 Q Correct; si or no?

5 A Yes; correct.

6 Q Do you know what an interrogatory  
7 is?

8 A Yes, what we're doing now.

9 Q No.

10 A For me, that's what it is. I  
11 don't know. I'm not an attorney.

12 Q This is called a deposition.

13 A Yes, okay.

14 Q Did your attorneys show you any  
15 documents asking you questions?

16 A Questions about you?

17 Q Si, yes.

18 A No, no.

19 Q I'm going to show you a document  
20 previously identified as Defendants' Exhibit  
21 Number 3.

22 Did you ever see that document  
23 before?

24 A No, I haven't seen this.

25 Q Okay, thank you.



1 L. N. Rodriguez

2 MR. ZABELL: Let the record  
3 reflect that the document identified as  
4 Defendants' Exhibit 3 is the Plaintiffs'  
5 second amended complaint and jury demand.

6 (A document consisting of  
7 Plaintiffs' second amended complaint and  
8 jury demand was marked as Defendants'  
9 Exhibit Number 15, for identification, as  
10 of this date.)

11 Q I'm going to show you a document  
12 identified as Defendants' Exhibit Number 15.

13 Have you ever seen that document  
14 before?

15 A No, this is the same one. I  
16 haven't seen it.

17 Q You haven't seen that one, either?

18 A No.

19 MR. ZABELL: Let the record  
20 reflect that Defendants' 15 is  
21 Defendants' first request for the  
22 production of documents.

23 (A document consisting of  
24 Defendants' first request for the  
25 production of documents was marked as

1 L. N. Rodriguez

2 Defendant's Exhibit Number 16, for  
3 identification, as of this date.)

4 Q I'm going to show you another  
5 document.

6 Have you ever seen that document?  
7 That's Defendants' Exhibit 16.

8 A No.

9 MR. McNAMARA: You just marked  
10 those two now?

11 MR. ZABELL: Yes.

12 Q So you never saw that document  
13 either; correct?

14 A No, I haven't seen it.

15 Q Okay, thank you. Give it back,  
16 please.

17 A (Handing.)

18 MR. ZABELL: Let the record  
19 reflect that the document I just showed  
20 this witness was Defendants' first set of  
21 interrogatories to Plaintiff.

22 You would imagine that he would  
23 have seen it.

24 Q Do you know why your attorneys  
25 didn't show you those documents?

1 L. N. Rodriguez

2 MR. McNAMARA: Objection.

3 A No, I don't know. I have seen  
4 others, but not those.

5 Q Yes, nothing else.

6 You got most of your pay from the  
7 defendants; did you not?

8 MR. McNAMARA: Objection.

9 A Excuse me. Can you repeat the  
10 question?

11 Q You got most of your pay from the  
12 defendants; correct, in your weekly paychecks?

13 A If my attorney received -- it's  
14 just that I don't understand. I don't  
15 understand.

16 Q What don't you understand?

17 A When he receives most of the pay  
18 from the defendants; who?

19 Q You got weekly paychecks; right?

20 A Yes.

21 Q That covered all your regular  
22 hours of work; correct?

23 A Yes.

24 Q Do you know who Walter Garcia is?

25 A Yes.

1 L. N. Rodriguez

2 Q Who is Walter Garcia?

3 A He was a coworker. When I used to  
4 do the rolling on the machine, he did the same  
5 work that I did.

6 Q Do you know who Walter Garcia  
7 works for now?

8 A He work for a company called  
9 Pioneer, it seems.

10 Q Do you know who Osmar Pagoada is?

11 A Yes, I know who he is. Yes, he's  
12 a coworker. He was a coworker.

13 Q Do you know who he works for now?

14 A I don't know who he works for now.

15 Q Do you know who Edwin Rivera is?

16 A Yes, he was a coworker, as well.

17 Q Do you know where he works now?

18 A Yes, he works for Intercounty  
19 Paving Corporation.

20 Q Do you know who Carlos Escalante  
21 is?

22 A Yes.

23 Q Do you know where he works now?

24 A He works for Pioneer.

25 Q Do you know who Jose Vega Castillo

1 L. N. Rodriguez

2 is?

3 A Yes, I know who Vega Castillo is.

4 Q Who is he?

5 A He was a coworker of mine, and he  
6 works for a company called Three Star.

7 Q Did you ever collect unemployment  
8 benefits?

9 A I collected the week that it  
10 rained a lot, but they haven't paid me. They  
11 have to pay for me because they found out that I  
12 didn't go to work.

13 Q Who found out that you didn't go  
14 to work?

15 A I guess it was Chris who said that  
16 the assistant of the Labor Department called,  
17 and that they had said that I hadn't gone to  
18 work.

19 Q That you refused to go to work?

20 A Yes, exactly.

21 Q Because you didn't check your  
22 messages; correct?

23 A I didn't see any messages or I  
24 didn't receive any messages. I haven't seen  
25 anything.

1 L. N. Rodriguez

2 Q But have you looked?

3 MR. McNAMARA: Objection.

4 A I haven't seen anything.

5 Q But have you looked?

6 A I haven't seen anything.

7 Q Listen to the question that I'm  
8 asking you: Did you look to see if you got a  
9 voicemail from Chris Vecchia?

10 A I haven't seen any message from  
11 Chris Vecchia.

12 Q Did you look with your eyes?

13 A I haven't seen with my eyes.

14 Q Did you look?

15 A I haven't seen.

16 Q I know you haven't seen, but did  
17 you look?

18 A I haven't looked, I haven't seen.  
19 None of that.

20 Q Thank you.

21 It's good to be honest; isn't it?  
22 It makes you feel better.

23 Don't you feel better now that  
24 you're honest?

25 A Of course.

1 L. N. Rodriguez

2 Q Okay, very good.

3 A I'm honest. I'm speaking only the  
4 truth.

5 Q No, you're not.

6 A Yes.

7 Q Did you ever know that the  
8 vehicles that you were driving had GPS reports?

9 A Yes. I would imagine that a  
10 company has to have that.

11 Q Do you know that those GPS systems  
12 tracked wherever you went with the vehicle?

13 A No, I never knew that they knew  
14 exactly where I went. I know they have a GPS,  
15 but I didn't know that they were always checking  
16 where I would go.

17 Q Your lawyer didn't send you all  
18 the reports that showed you where you were in  
19 the vehicles?

20 A No, my attorney hasn't told me  
21 about that.

22 MR. ZABELL: Ask him. Go ahead,  
23 ask him. You can ask him in private.

24 MR. McNAMARA: Come with me a  
25 second.

1 L. N. Rodriguez

2 (Whereupon, a recess was taken at  
3 this time.)

4 Q You spoke to him?

5 A Yes.

6 Q He cleared it up?

7 A Yes.

8 Q I'm not lying to you; right?

9 A No. What I understood, since I  
10 don't speak much English, I understood a little  
11 bit of what he said.

12 Q Do you want time to speak to Ian?

13 A I don't know. If I have the  
14 opportunity, I would like to speak to him, as  
15 well.

16 MR. ZABELL: I will give you that  
17 opportunity, because I want to be fair to  
18 you.

19 MR. McNAMARA: We'll be back in a  
20 few minutes. We'll be outside.

21 (Whereupon, a recess was taken at  
22 this time.)

23 MR. ZABELL: You got everything  
24 cleared up, Counselor?

25 MR. McNAMARA: We've been clear



1 L. N. Rodriguez

2 the whole time.

3 Q You have everything cleared up?

4 A Yes.

5 Q Is there anything you'd like to  
6 say?

7 A They hardly check the GPS.

8 Q Your attorneys hardly checked the  
9 GPSs?

10 A No, I'm saying that they don't  
11 have information saying that they check the GPSs  
12 often.

13 Q No?

14 A No.

15 Q They didn't show you the reams and  
16 reams of paper showing what times you arrived on  
17 the job site, when the vehicles moved, and the  
18 7-Elevens that you went to? You don't remember  
19 that?

20 A They didn't show me anything like  
21 that. They showed me other papers.

22 Q Did they tell you that they had  
23 that?

24 MR. McNAMARA: Objection.

25 A No. They told me that they don't

1 L. N. Rodriguez

2 have much information on that.

3 Q That's not honest.

4 Did you ever play soccer when you  
5 were at a job site?

6 A Maybe two times or three times  
7 when the machines would beak down.

8 Q Two or three times a week?

9 A No. Maybe once a year.

10 Q Once a year?

11 A I hardly ever had a chance to  
12 hangout with the rest of them, because I was  
13 always on the machine. I was always the last  
14 one to finish the work on the machine.

15 Q Did you ever take a lunch break?

16 A It was unusual.

17 Q Really? Because you said you  
18 never ate breakfast, so you also never ate lunch  
19 too?

20 A In the truck, in the truck, or on  
21 the roller; working and eating.

22 Q What would you eat on the roller?

23 A My food, my favorite food.

24 Q What's your favorite food?

25 A Hispanic food.

1 L. N. Rodriguez

2 Q What kind of Hispanic food; arroz  
3 con pollo?

4 A Arroz con pollo, rice and beans,  
5 chicken, and that's it.

6 Q Fish?

7 A Everything. Any kind of meat. I  
8 like everything.

9 Q Goat?

10 A No, I've never tasted that.

11 Q Snails?

12 MR. McNAMARA: Objection.

13 A What is that?

14 Q Snails.

15 A Snakes -- snails? Yes, yes.

16 Q You like that?

17 A No, but I didn't eat that at work,  
18 because you eat that raw.

19 Q You eat snails raw?

20 A Yes, with lemon and sauce.

21 Q Raw?

22 MR. McNAMARA: Like clams or  
23 oysters.

24 Q Where would you get your food?

25 A I would make it at home.

1 L. N. Rodriguez

2 Q You would never buy it from a  
3 store during the day?

4 A Very rarely, very rarely.  
5 Sometimes they would send someone to buy some  
6 things.

7 Q Didn't most of your coworkers buy  
8 lunch?

9 A Some of them did buy it, but  
10 maybe -- I think they used to pay before going  
11 to the yard, and they would buy something.

12 Q Where?

13 A In the delis, 7-Eleven.

14 Q That's where you get your coffee;  
15 right?

16 A Yes; correct.

17 Q Did your coworkers take a lunch  
18 break?

19 A Not always. Very unusual. If we  
20 ate, we did everything very fast.

21 Q Did you ever take a coffee break?

22 A If we did have coffee -- if one of  
23 the drivers had coffee, we would do it very  
24 quickly. We would drink it very fast, and then  
25 we would work.

1 L. N. Rodriguez

2 (A bulletin board was marked as  
3 Defendants' Exhibit 17, for  
4 identification, as of this date.)

5 Q I'm going to show you document  
6 that I've marked as Defendants' Exhibit  
7 Number 17.

8 Have you ever seen that document  
9 before?

10 A This is for the ones who drive the  
11 ten-wheelers, the truck drivers. This wasn't  
12 for me because I didn't -- they weren't really  
13 paying me to drive.

14 Q So you've seen this poster board  
15 before; correct?

16 A I haven't seen all of them. I've  
17 seen about two of them, maybe two. I've seen  
18 two.

19 Q Which two have you seen?

20 A This one (indicating) that says,  
21 "This includes interior/exterior rims."

22 Q What else?

23 A It's just that I hardly -- I  
24 really don't know how to read much.

25 Q But you've seen this board at

1 L. N. Rodriguez

2 work; correct? It's a bulletin board; correct?

3 A This board exists there. They use  
4 this board to post the jobs that were going to  
5 be done that day for the drivers.

6 Q So you would look at that board  
7 every day?

8 A Yes, but I didn't see it with all  
9 of these papers.

10 Q Thank you.

11 I'm going to show you a document,  
12 which has been previously marked as Defendants'  
13 Exhibit 5.

14 Have you ever seen that document  
15 before?

16 A These are the -- fill in the time,  
17 the weekly hours.

18 Q Did you ever work for the Town of  
19 Babylon?

20 A Yes. Lately, we worked there a  
21 lot in 2010, but I don't remember having worked  
22 at the Town of Babylon in 2009.

23 Q Do you see your name anywhere on  
24 that document?

25 A Yes, I see it.

1 L. N. Rodriguez

2 Q Is it on the first page?

3 A I see it here on this one  
4 (indicating), the second to last one.

5 Q No. Do you see it on the first  
6 page?

7 A Yes.

8 Q What time does it show you coming  
9 to work?

10 A It says 8:00 a.m.

11 Q What time does it show you leaving  
12 work?

13 A I think it says 5:00 a.m., doesn't  
14 it?

15 Q 6:00 p.m.

16 A No. Here it says 5:00 -- I don't  
17 know if it's 5:00 or 3:00, and that's not  
18 correct.

19 Q Oh, somebody said that's  
20 incorrect. I see.

21 Turn the page.

22 A (Witness complies.)

23 Q Do you see your name on that page?

24 A Yes.

25 Q What time does that show you

1 L. N. Rodriguez

2 coming into work?

3 A At 8:00 a.m.

4 Q What time does it show you leaving  
5 work?

6 A At 5:00 a.m.

7 Q That says 5:00?

8 A That's what it looks like to me; 5A.

9 Q It doesn't look like a 4P; 4:00 p.m.?

10 A It says 5A. Oh, it's there, here  
11 (indicating). It's just that I'm looking at the  
12 last one. I'm not looking there.

13 Q Where it says SA, for Suffolk  
14 Asphalt?

15 A Here (indicating), where it says  
16 4:00 p.m.

17 Q There you go.

18 You see 4:00 p.m. now?

19 A Yes.

20 Q It shows you leaving on this date  
21 coming in at 8:00 and leaving at 4:00 p.m.;  
22 correct, and it's signed off of by a Town of  
23 Babylon representative; correct?

24 MR. McNAMARA: Objection.

25 A Yes. But I'm not familiar with



1 L. N. Rodriguez

2 that signature. This, for me, is not correct.

3 Q Turn the page.

4 A (Witness complies.)

5 Q Do you see your name anywhere on  
6 this page?

7 A No, I'm not there.

8 Q Turn the page again.

9 A (Witness complies.)

10 I'm not there, either.

11 Q Turn the page again, please.

12 A (Witness complies.)

13 Q Did you see your name anywhere  
14 there?

15 A Here it is, here it is  
16 (indicating). It's just that my name is very  
17 short here.

18 Q Do you see what time it says you  
19 came into work?

20 A Yes, at 8:30.

21 Q Does it show what time you left  
22 work?

23 A At 6:00.

24 Q And it was signed by a Town of  
25 Babylon representative; correct?

1 L. N. Rodriguez

2 A Yes, it's there that he signed it.

3 Q Turn the page, please.

4 A (Witness complies.)

5 Yes, I'm there.

6 Q What time does it show you coming  
7 into work on that day?

8 A At 8:30.

9 Q What time does it show you  
10 leaving?

11 A 5:00 p.m.

12 Q And it's signed by a Town of  
13 Babylon representative; is it not?

14 MR. McNAMARA: Objection.

15 A I'm not familiar with that  
16 signature. I don't know if it's his or not.  
17 I'm not familiar with it.

18 Q Right, but it's signed there;  
19 right?

20 A It's signed.

21 Q By someone from the Town of  
22 Babylon; right?

23 A If it says it's the Town of  
24 Babylon here.

25 Q Turn the page.

1 L. N. Rodriguez

2 A (Witness complies.)

3 I'm there, as well.

4 Q What time does it show you coming  
5 into work?

6 A At 8:00 a.m.

7 Q What time does it show you leaving  
8 work?

9 A At 4:00 p.m.

10 Q And it's signed by a Town of  
11 Babylon representative; correct?

12 MR. McNAMARA: Objection.

13 A Yes, same signature.

14 I haven't seen this (indicating).

15 Q Turn the page, again.

16 A (Witness complies.)

17 My name is there, as well.

18 Q What time does it show you coming  
19 into work?

20 A At 8:30.

21 Q What time does it show you leaving  
22 work?

23 A At 6:00.

24 Q I don't know, but the page I'm  
25 looking at says 5:00.

1 L. N. Rodriguez

2 On the bottom, right-hand corner,  
3 it should say 1271. I think you're a page  
4 ahead.

5 Do you see the very first name?

6 A Yes.

7 Q Whose name is that?

8 A That's my name; Lerly Noe Rodriguez.

9 Q That's you; right?

10 A Yes.

11 Q You're sure it's you?

12 A That's me. That's my name, but I  
13 didn't put it down.

14 Q If I was outside and I screamed  
15 the name Lerly, would you turn around because I  
16 was calling your name?

17 MR. McNAMARA: Objection.

18 A Yes, of course. That's my name.

19 Q And if I called you Mr. Rodriguez,  
20 would you know I was talking about you?

21 A If there is no other Rodriguez  
22 next to me, then, yes.

23 Q Is there another Rodriguez in this  
24 room?

25 A No.

1 L. N. Rodriguez

2 Q How do you know? Did you ask the  
3 ladies?

4 A I haven't heard anyone by the name  
5 of Rodriguez here.

6 Q But did you ask?

7 MR. McNAMARA: Objection.

8 Q Do you know my name?

9 A I'm not very sure how you say it.

10 Q How do you think you say it?

11 A You're name is very odd. I can't  
12 really say it.

13 Q Saul?

14 A Saul. I thought Saul was the name  
15 of the cooperation. I thought that was the name  
16 of it, not your name.

17 Q Mi nombre is Saul.

18 A Okay, now I know.

19 Q And you can call me Saul any time.  
20 I promise you that I will answer you.

21 So Mr. Rodriguez, Lerly Rodriguez,  
22 Lerly Noe Rodriguez, this sheet shows you coming  
23 in at 8:30 in the morning; right?

24 A There it says 8:30 (indicating).

25 Q It shows you leaving at 5:00;

1 L. N. Rodriguez

2 correct?

3 A Yes.

4 Q And it's signed by a Town of  
5 Babylon representative; correct?

6 MR. McNAMARA: Objection.

7 A Yes, it's signed.

8 Q Now, turn the page, Mr. Lerly Noe  
9 Rodriguez.

10 A (Witness complies.)

11 Q Do you see your name on that page?

12 A Yes, yes.

13 Q What time did you come to work  
14 that day?

15 A At 8:30.

16 Q What time did you leave?

17 A At 6:00.

18 Q It's also signed by a Town of  
19 Babylon representative; correct?

20 MR. McNAMARA: Objection.

21 A Yes.

22 Q How come you never told me before  
23 that you would go to work at 8:30?

24 MR. McNAMARA: Objection.

25 A It's just that I have never seen

1 L. N. Rodriguez

2 that.

3 Q So if you had seen it, you would  
4 have changed your testimony?

5 A It's almost all the same. If I  
6 would have seen it, it would have been a  
7 different version, but I haven't seen that. The  
8 way they write down the time here, it's very  
9 orderly. We never started at that time.

10 Q So if you would have seen that  
11 document before, you would have changed your  
12 testimony; correct?

13 MR. McNAMARA: Objection.

14 Q You know the answer.

15 A If I would have seen this document  
16 before, I would have changed my testimony?

17 Q I agree, I agree.

18 A If I would have seen it --

19 Q Now, Mr. Rodriguez, the posters  
20 that I showed you before as Exhibit 17, is it  
21 your testimony that you've only seen some of  
22 those posters?

23 A Yes, some of them, some of them.  
24 Some of them, but not these here (indicating).  
25 I saw other ones with another kind of

1 L. N. Rodriguez

2 handwriting, but not signed like that  
3 (indicating).

4 Q So you're saying the posters I  
5 showed you were signed?

6 A They're signed, but I don't know  
7 why there's no order, because I don't understand  
8 why it's written down like that.

9 Q I don't know why you don't  
10 understand it, either.

11 Did you ever work in the shop?

12 A I worked cleaning machines. I  
13 would clean the box truck sometimes.

14 Q When?

15 A Sometimes we would get out at  
16 5:30, and the boss said that we would have to do  
17 a certain thing.

18 Q When?

19 A I don't know. I don't know the  
20 exact date.

21 Q Did you ever do work at  
22 Louis Vecchia's home?

23 A Yes, I remember once.

24 Q What did you do there?

25 A I went to take apart a sauna that



1 L. N. Rodriguez

2 he had outside.

3 Q Were you angry when you did that?

4 A No.

5 Q Do you like Louis Vecchia?

6 A I don't like him, nor do I dislike  
7 him.

8 MR. ZABELL: I need to take a  
9 two-minute break.

10 (Whereupon, a recess was taken at  
11 this time.)

12 Q You were telling us how you hate  
13 Mr. Vecchia. Continue.

14 MR. McNAMARA: Objection.

15 A No, I said that I don't feel any  
16 feelings. I don't feel any of those feelings.  
17 I don't feel that I hate him, nor do I like him.  
18 I don't really have any feelings.

19 Q This is the man that helped you  
20 provide for your family for the last seven  
21 years; right?

22 MR. McNAMARA: Objection.

23 A But he also benefited from my  
24 work.

25 Q He paid you for your work; right?

1 L. N. Rodriguez

2 A Yes, but I did the work for that  
3 money.

4 Q Did you ever do any side work?

5 A The only ones that I said. Those  
6 are the only ones.

7 Q What ones did you say?

8 A The taxi driving two or three  
9 days, a few opportunities that I worked at a  
10 stucco company, that I worked with my brother,  
11 and that currently, I work with another company.

12 Q Who paid you more; Mr. Vecchia or  
13 your brother?

14 A My brother. It was according to  
15 production, by parts, by pieces. If I did this  
16 piece, I would get paid a certain amount. You  
17 would say by contract, something like that, not  
18 by the hour.

19 Q A great answer, but not the answer  
20 to the question I asked you.

21 Who paid you more?

22 A Louis Vecchia.

23 Q Did your brother pay you in cash?

24 A He would pay me by check and by  
25 cash.

1 L. N. Rodriguez

2 Q Did you ever file income tax  
3 returns?

4 A No. It wasn't -- he didn't give  
5 me a lot in cash. He would give me \$20 or  
6 something like that, and I didn't work for him  
7 for a long time, either.

8 Q You said you worked for him for a  
9 year.

10 A I didn't say that.

11 Q The record says you did.

12 A I didn't say that.

13 Q The record says in 2005, you  
14 worked for your brother.

15 A What does it say?

16 Q I just told you.

17 A Yes. But what does it say there?  
18 How did I work, in what way?

19 Q If you want to play games, you can  
20 play games, that's fine. You're only hurting  
21 yourself.

22 A I'm saying that I worked with him,  
23 period. I had my own company.

24 Q When did you work for your  
25 brother?

1 L. N. Rodriguez

2 A It was in 2005, approximately, 2005.

3 Q From when to when in 2005?

4 A We're talking about June to July  
5 and part of August.

6 Q What did you do from January to  
7 July of 2005?

8 A In 2005, I didn't have work. I  
9 was without work for a certain time. After I  
10 stopped working with my brother, I tried to take  
11 out my license to be able to have a company.

12 Q That was in 2006; correct?

13 A Something like that.

14 Q Is it something like that or  
15 exactly like that, because that's what you  
16 testified about before?

17 A No. I didn't say it was in 2006.  
18 I said it's an approximation. I didn't say  
19 2006.

20 Q In 2006, Noe Excellent Stucco.  
21 That's what you testified about before.

22 Were you lying then, or are you  
23 lying now?

24 A It's just that now you're asking  
25 me about 2006. I said that I had company, but

1 L. N. Rodriguez

2 you didn't ask me in what year.

3 Q I believe the record contradicts  
4 you.

5 I am not going to take the time to  
6 explain to you the importance of being honest.  
7 You can rest assured I will be using this record  
8 to impeach you, to the extent you are  
9 intentionally concealing facts or lying.

10 You can be sure that I will be  
11 taking all steps to ensure that my client's  
12 rights are protected and that you are punished  
13 for your actions.

14 A Okay. Why are you going to punish  
15 me?

16 Q It's not my place to punish you.  
17 It's my place to report you to the right  
18 authority to punish you for intentionally lying  
19 or misleading on the record.

20 A Okay. You can do it. My records  
21 are all good. Whoever doesn't do anything bad  
22 shouldn't be worried.

23 Q Mr. Rodriguez, are your income tax  
24 returns going to show that you worked for your  
25 brother in 2005?

1 L. N. Rodriguez

2 A My income taxes show if I worked  
3 for my brother?

4 It only says that I earned  
5 something personal, about \$8,000 personally a  
6 year, because the checks that he gave were  
7 personal.

8 Q So your brother wasn't paying  
9 taxes on your work?

10 A They're small companies. They're  
11 companies that only have insurance for  
12 liabilities, not Workers' Comp, where two or  
13 three people work.

14 Q So small companies can defraud the  
15 State?

16 MR. McNAMARA: Objection.

17 A No, he's not defrauding the State.

18 Q What's your brother's name?

19 A I can't talk about that.

20 Q You have no choice.

21 A No.

22 Q You have no choice.

23 You said you worked for your  
24 brother?

25 A Yes, but that's something

1 L. N. Rodriguez

2 privileged. That's something mine.

3 MR. ZABELL: Counselor, advise him  
4 that he does have to provide an answer.

5 MR. McNAMARA: You do have to  
6 answer the question.

7 A Okay, his name is Pedro Antonio Varges.

8 Q Where does your brother currently  
9 live?

10 A In Honduras.

11 Q He left the United States?

12 A Yes. His family is there, and he  
13 went to live there.

14 Q When?

15 A He's been there about nine months  
16 already.

17 Q Where in Florida did he live  
18 before he moved to Honduras?

19 A He lived in Poinciana, Florida.

20 Q Can you spell that, please?

21 A I don't know. I only know it's  
22 Poinciana.

23 Q Poinciana, Florida?

24 A Yes.

25 Q This is the brother you worked for

1 L. N. Rodriguez

2 who did not pay taxes?

3 A No, he paid his taxes. He would  
4 pay the taxes. I had to put down that I earned  
5 \$8,000 personally. That was what I earned.

6 Q And the name of his business was,  
7 what?

8 A No, I don't recall the name. It's  
9 been a long time. We're talking about five or  
10 six years. I don't remember that, because they  
11 were personal checks.

12 Q Were there any other employees  
13 that worked with you for your brother?

14 A There were two more people that  
15 worked there, but they're no longer here in the  
16 United States. His company -- he closed it  
17 about three years ago.

18 Q We'll see about that.

19 And your company, Noe Excellent  
20 Stucco, how many employees did you have?

21 A I had about -- I never had  
22 permanent ones. I had from three to two.

23 Q What were their names?

24 A I don't remember. They are people  
25 who already left.



1 L. N. Rodriguez

2 Q What do you mean they already  
3 left?

4 A They are no longer in the country.  
5 They come and work temporarily and then they  
6 leave.

7 Q Were those individuals authorized  
8 to work in the United States?

9 MR. McNAMARA: Objection.

10 A I don't know. I only pay them  
11 their check from the corporation, that's it,  
12 with their name and the passport. That's it.

13 Q Was your company authorized to do  
14 business in the State of Florida?

15 MR. McNAMARA: Objection.

16 A Yes.

17 Q Did you get a license?

18 A Yes, I have a license.

19 Q Did you pay taxes?

20 A I paid taxes.

21 Q So I could see a company tax  
22 return for the year 2006; right?

23 A You want to see it?

24 Q Yes.

25 A I don't have it with me anymore.

1 L. N. Rodriguez

2 MR. McNAMARA: Objection.

3 Q Where is it?

4 A I no longer have that company.

5 Why would I have that?

6 Q How long did you hold on to it  
7 before you threw it out?

8 A I think two years, two-and-a-half  
9 years.

10 Q Two years.

11 And it was reasonable for you to  
12 throw it out after two years; right?

13 A You know, when you move, you move,  
14 and I haven't really been permanent in one place  
15 for many years.

16 Q So it was reasonable for you to  
17 throw it out; right?

18 MR. McNAMARA: Objection.

19 A I don't know. It was something  
20 that was already closed. The taxes were already  
21 paid. Everything was done.

22 Q You paid withholding taxes for  
23 these individuals?

24 A The checks that -- when the  
25 accountant did all the work, you could see the

1 L. N. Rodriguez

2 checks that were paid to the people in the  
3 company.

4 Q What accountants did you use?

5 A I don't remember anymore.

6 Q Well, you said I could see the  
7 checks.

8 Where can I see the checks?

9 MR. McNAMARA: Objection.

10 A Where could you see them if I  
11 don't have them anymore?

12 Q So you threw them out?

13 MR. McNAMARA: Objection.

14 A I don't have them. Since I no  
15 longer have the company, I no longer have the  
16 checks.

17 Q What did you do with the checks?

18 MR. McNAMARA: Objection.

19 A I don't have them. I no longer  
20 have checks. I have nothing.

21 Q Was there a period of time where  
22 you had the checks?

23 MR. McNAMARA: Objection.

24 A Yes, I had the checks to be able  
25 to pay for the materials, to pay the people. I

1 L. N. Rodriguez

2 didn't have the company for very long.

3 Q So you had the checks, and now you  
4 don't have the checks.

5 What happened to them?

6 MR. McNAMARA: Objection.

7 A I had the checks when the company  
8 was working, and why should I have them if I  
9 don't have anything now?

10 Q What did you do with the checks?

11 MR. McNAMARA: Objection.

12 Q You can answer. Ignore him.

13 A What am I going to do? I no  
14 longer have them. The company is no longer  
15 there. I don't have them.

16 Q Stop playing games.

17 Answer the question that I'm  
18 asking you; otherwise, you're going to be here  
19 for a very long time.

20 Do you understand?

21 A That's the only response that I  
22 have.

23 Q What did you do with the checks?

24 MR. McNAMARA: Objection.

25 A I no longer have checks.

1 L. N. Rodriguez

2 Q What did you do with them?

3 A I don't have them. I don't have a  
4 company. I don't have them.

5 Q What did you do with the them?

6 MR. McNAMARA: Objection.

7 A I don't have checks. I don't have  
8 a company.

9 Q Did you ever have the checks?

10 MR. McNAMARA: Objection.

11 A I had them, but --

12 Q So you had the checks before, but  
13 you don't have the checks now?

14 MR. McNAMARA: Objection.

15 A Why should I have them if I don't  
16 have a company?

17 Q You don't get to ask questions.  
18 You get to sit there, take that silly smirk off  
19 your face, and answer my questions.

20 Do you understand that?

21 MR. McNAMARA: Counselor, be more  
22 courteous to my client.

23 Q Do you understand that?

24 A Yes, sir.

25 Q You had the checks at one point,

1 L. N. Rodriguez

2 and you no longer have the checks now; correct?

3 A Yes.

4 Q What did you do with the checks?

5 MR. McNAMARA: Objection.

6 A I don't have them.

7 Q We've already established that you  
8 no longer have them.

9 What did you do with them?

10 MR. McNAMARA: Objection.

11 A Because the company no longer  
12 exists.

13 Q What did you do with the checks?

14 A I don't have them anymore.

15 Q Take the silly smirk off your face  
16 and answer the question.

17 MR. McNAMARA: Objection.

18 Q What did you do with the checks?

19 A I no longer have them.

20 Q Where are they?

21 A I don't have them.

22 Q Did you throw them out?

23 A There are no checks. There's no  
24 checks now.

25 Q Did you burn them?

1 L. N. Rodriguez

2 MR. McNAMARA: Objection.

3 A I don't know if I threw them away.  
4 I don't know if they got lost. I don't know  
5 anything about them.

6 Q Did you lose them?

7 MR. McNAMARA: Objection.

8 A I don't know. I moved and I don't  
9 have anything.

10 Q Where did you keep them before you  
11 moved?

12 MR. McNAMARA: Objection.

13 A In my personal boxes where I had  
14 my things, and what you don't use, you end up  
15 losing.

16 Q Where did you keep those personal  
17 boxes?

18 A At home.

19 Q What home?

20 A The house that I rent.

21 Q The house that you rented in  
22 Florida?

23 A No, no. There, I had house.

24 Q Did you buy a house?

25 A I had a house; yes.

1 L. N. Rodriguez

2 Q You were permitted to buy a house  
3 in the United States?

4 A Yes, because I have a good Social  
5 Security number.

6 Q As opposed to a bad Social  
7 Security number?

8 A No, it's good.

9 Q [REDACTED]  
10 [REDACTED]

11 A [REDACTED]

12 Q [REDACTED]

13 MR. McNAMARA: Objection.

14 Anything stemming from this, I  
15 believe, will fall under the protective  
16 order.

17 MR. ZABELL: Anything stemming  
18 from what?

19 MR. McNAMARA: From this  
20 questioning. It could fall under the  
21 protective order.

22 MR. ZABELL: It could, but so far,  
23 it hasn't.

24 MR. McNAMARA: Okay. Well, I'm  
25 instructing my client not to answer,



1 L. N. Rodriguez

2 based on the chance that it falls under  
3 the protective order.

4 Q [REDACTED]

5 [REDACTED]

6 MR. McNAMARA: Don't answer that.

7 MR. ZABELL: That has nothing to do  
8 with his immigration status. [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 MR. McNAMARA: What documents are  
12 those?

13 MR. ZABELL: The documents he  
14 provided us before.

15 MR. McNAMARA: What documents are  
16 those? He provided his driver's license,  
17 which doesn't have a Social Security  
18 number on it.

19 MR. ZABELL: Patrick, don't you  
20 know that if you're going to try this one  
21 with the big dogs, you're going to have  
22 to be prepared?

23 Patrick, you know that; right? I  
24 am referring specifically to -- I've  
25 already scanned it and sent it off to the

1 L. N. Rodriguez

2 authorities.

3 Q [REDACTED]

4 [REDACTED]

5 A [REDACTED] --

6 Q [REDACTED]

7 A [REDACTED]

8 [REDACTED]

9 Q [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 A [REDACTED]

13 [REDACTED]

14 Q [REDACTED]

15 [REDACTED]

16 A [REDACTED]

17 [REDACTED]

18 [REDACTED] -

19 Q [REDACTED]

20 [REDACTED]

21 MR. McNAMARA: [REDACTED]

22 [REDACTED]

23 A [REDACTED]

24 [REDACTED]

25 Q Right.

1 L. N. Rodriguez

2

3

4

A

5

6

7

Q

What does that mean?

8

A

9

10

11

Q

So you're allowed to work here?

12

A

13

14

I have my good Social Security  
number, which has been approved by the State,  
the Federal, State.

15

Q

16

17

MR. McNAMARA: Objection.

18

Don't answer.

19

20

And you know why. We've already  
talked about it.

21

Q

22

23

A

24

Q

25

1 L. N. Rodriguez

2 A [REDACTED]

3 Q And you share it with everyone;  
4 right?

5 A That's the only one. It's mine.  
6 Absolutely mine until I die.

7 MR. McNAMARA: Also, I would like  
8 to have any questions and answers  
9 regarding Mr. Rodriguez's tax returns, as  
10 well as his pay stubs, marked  
11 confidential.

12 MR. ZABELL: I will not agree.

13 MR. McNAMARA: You won't agree?

14 MR. ZABELL: Sure.

15 MR. McNAMARA: There's already an  
16 order that -- why won't you agree?

17 MR. ZABELL: We have a stipulation  
18 of confidentiality that spells out the  
19 terms of what we're required to do.

20 If you want to designate something  
21 as confidential, I will not consent to  
22 it. You now have a set of procedures  
23 that you are obligated to follow if you  
24 want to, in fact, ensure that your  
25 designation is appropriate. You can

1 L. N. Rodriguez

2 either do it or you can speak to Ian  
3 Wallace or Lauren Goldberg.

4 Do you want time to confer with  
5 them now? I will be more than happy to  
6 let you take some time to confer with  
7 them. I'm here for the duration.

8 MR. McNAMARA: I don't know what I  
9 have to speak to them about.

10 MR. ZABELL: I just explained it  
11 to you, but if you're still unsure,  
12 there's a transcript that you're more  
13 than welcome to purchase on an expedited  
14 basis.

15 You can arrange that for them;  
16 correct?

17 THE COURT REPORTER: Yes, sir.

18 MR. ZABELL: I'm not going to take  
19 the time to explain it to you again.

20 MR. McNAMARA: We'd like these  
21 materials marked confidential as per the  
22 agreement.

23 MR. ZABELL: Did you not just hear  
24 me say that I oppose the designation?

25 MR. McNAMARA: I did hear you say

1 L. N. Rodriguez

2 that.

3 MR. ZABELL: Now, there are  
4 procedures in place for you to follow to  
5 test whether or not your designation is  
6 appropriate.

7 MR. McNAMARA: Okay, all right.  
8 I'll give Ian a call.

9 MR. ZABELL: Now?

10 MR. McNAMARA: Yes.

11 MR. ZABELL: So you'd like some  
12 time right now to call Ian?

13 MR. McNAMARA: Yes, please.

14 MR. ZABELL: Granted.

15 MR. McNAMARA: Thank you very  
16 much.

17 MR. ZABELL: You're welcome.  
18 Take this man out with you,  
19 please. I don't want him to talk to me.

20 (Whereupon, a recess was taken at  
21 this time.)

22 MR. ZABELL: We're back from the  
23 break, and young Master Patrick over here  
24 has something he'd like to tell  
25 everybody.

1 L. N. Rodriguez

2 Please tell us all what you found  
3 out during that break.

4 MR. McNAMARA: Thank you for  
5 giving me this time.

6 MR. ZABELL: You're welcome.

7 MR. McNAMARA: We'd like to  
8 reiterate our request that all testimony  
9 regarding Mr. Rodriguez's tax returns, as  
10 well as his Social Security numbers is --

11 MR. ZABELL: Of his number or  
12 numbers, plural?

13 MR. McNAMARA: Whatever you want  
14 to call it.

15 MR. ZABELL: Well, I wasn't sure  
16 if you said number or numbers, plural.

17 Madame Court Reporter, I'm a  
18 little hard of hearing. Did he say  
19 numbers?

20 (Whereupon, the requested portion  
21 of the record was read by the court  
22 reporter.)

23 MR. ZABELL: [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 L. N. Rodriguez

2 Please continue.

3 MR. McNAMARA: Whatever you would  
4 like to have it as in the record.

5 MR. ZABELL: Well, if the court  
6 reporter took it down wrong, now is your  
7 time to correct it.

8 MR. McNAMARA: I would like it  
9 corrected to be singular; the topic of  
10 his Social Security number.

11 MR. ZABELL: [REDACTED]

12 [REDACTED]

13 MR. McNAMARA: No, he didn't.

14 Can I finish what I'm --

15 MR. ZABELL: Only if you're  
16 accurate. Are you agreeing to be  
17 accurate, Counselor?

18 MR. McNAMARA: Yes, of course. I  
19 wouldn't dare be anything but accurate.

20 MR. ZABELL: Okay. Because if the  
21 court reporter took down numbers, and I  
22 thought I heard you say numbers, and now  
23 you want to change it, if you were to  
24 say, look, I made a mistake, I meant to  
25 say number, but I did say numbers, then



1 L. N. Rodriguez

2 that's one thing, but to say you said  
3 number when, in fact, you did say  
4 numbers, that's being dishonest.

5 MR. McNAMARA: Would you like to  
6 give me a chance to clear this up?

7 MR. ZABELL: If you want an  
8 opportunity to correct your mistake, then  
9 you may.

10 MR. McNAMARA: If I was mistaken  
11 and I said numbers when I meant to say  
12 number, I apologize.

13 MR. ZABELL: You will acknowledge  
14 that you said numbers, plural,  
15 originally?

16 MR. McNAMARA: It would make you  
17 so happy if I did.

18 MR. ZABELL: Well, it would just  
19 be honest.

20 MR. McNAMARA: I may have said  
21 numbers when I meant to say number --

22 MR. ZABELL: May have or did?

23 MR. McNAMARA: I did.

24 We would like to reiterate our  
25 request that any testimony regarding

1 L. N. Rodriguez

2 Mr. Rodriguez's Social Security number  
3 and his tax returns be marked  
4 confidential pursuant to the agreement.

5 MR. ZABELL: As I said to you  
6 before, I will not consent to your  
7 designation. I do not believe I have an  
8 obligation, and there is, in fact, an  
9 agreement for me to keep it confidential,  
10 but as I referred to you before, you can  
11 speak with your co-counsel, who has the  
12 agreement --

13 MR. McNAMARA: I've already done  
14 that.

15 MR. ZABELL: -- and has the steps  
16 necessary to follow to test my objection  
17 to that designation.

18 MR. McNAMARA: It's on the record.  
19 We can continue with the questioning.

20 MR. ZABELL: It was on the record  
21 before you took the break --

22 MR. McNAMARA: Right.

23 MR. ZABELL: -- probably twice,  
24 and now, it's on the record a third time.

25 MR. McNAMARA: You could probably

1 L. N. Rodriguez

2 count it four times with how many times  
3 we had to run through it.

4 MR. ZABELL: When you say "we,"  
5 you mean --

6 MR. McNAMARA: You and I.

7 MR. ZABELL: I'm not running  
8 through anything with you.

9 MR. McNAMARA: Okay. Now that  
10 it's on the record, we can continue.

11 MR. ZABELL: By "we," who are you  
12 referring to?

13 MR. McNAMARA: Everyone in the  
14 room, the procedure, the proceeding.

15 MR. ZABELL: You mean my  
16 deposition?

17 MR. McNAMARA: Sure.

18 MR. ZABELL: Sure or yes?

19 MR. McNAMARA: Yes.

20 Q Mr. Rodriguez, do you recall going  
21 to job sites where there was an inspector?

22 A From where? What job are you  
23 talking about?

24 Q Any job.

25 A Here in the State of New York?

1 L. N. Rodriguez

2 Q Yes, in the State of New York.

3 A Medford; in the area of Medford,  
4 Islip, Central Islip, Town of Babylon this year  
5 and last year. There's another project that's  
6 near Mineola; Flower Hill. Many. Most of them  
7 have had inspectors.

8 Q Those inspectors were aware of the  
9 hours that you would arrive at work and hours  
10 that you would leave; correct?

11 A No, they knew the hours of when  
12 the machine starting working with the materials,  
13 and also, there were some that knew that we  
14 would leave late in the evening.

15 Q Who knew that you would leave late  
16 in the evening?

17 A Most of the inspectors from  
18 Brookhaven near Medford, the area of Brookhaven.

19 Q Would those inspectors leave  
20 before you or after you?

21 A Sometimes they would get angry  
22 because they would have to wait for trucks, and  
23 they would leave after, and I would stay back  
24 and finish the work and cleaning, and sometimes  
25 they would leave.

1 L. N. Rodriguez

2 Q So they would leave after you?

3 A No, sometimes they would leave  
4 before.

5 Q And sometimes they would leave  
6 after?

7 A It was very rare when they left  
8 later. They usually left before.

9 Q Did you ever speak to a police  
10 officer about your job with Suffolk Paving?

11 A If I spoke to a police officer?

12 Q Yes.

13 A What is the question?

14 I don't understand.

15 Q Did you ever speak to a police  
16 officer about your employment with any of the  
17 defendants?

18 A I don't know. I don't remember  
19 having seen any police. I don't remember.

20 Q Did you ever speak to a detective?

21 A Detective, I have never spoke with  
22 one. Only with the ones from the union.

23 Q When did you speak to a detective  
24 from the union?

25 A Scott. Sometimes he would come

1 L. N. Rodriguez

2 when my boss had other workers there that  
3 weren't from the union.

4 Q What was this man's name?

5 A Scott.

6 Q Scott what?

7 A I don't know his last name. I  
8 just know him by Scott.

9 Q Do you have any reason to believe  
10 that Helene Vecchia is an owner of Suffolk  
11 Asphalt or Suffolk Paving?

12 MR. McNAMARA: Objection.

13 A I think that company is a family  
14 company.

15 Q Why do you think that?

16 A Because they are all working in  
17 conjunction.

18 Q In conjunction with what?

19 A One is president, one is the  
20 owner, one is the accountant.

21 Q Who is the accountant?

22 A Helene.

23 Q Is an accountant an owner?

24 MR. McNAMARA: Objection.

25 A I'm not sure about that. I'm not

1 L. N. Rodriguez

2 sure if she's an owner, but I'm not sure whether  
3 they have anything to do with all of that or  
4 not, because she was one that was in charge of  
5 making the checks.

6 Q How do you know that?

7 A Because she was the one to give  
8 the foreman the lists.

9 Q Do you know who Tom McElvy  
10 (phonetic) is?

11 A Yes, foreman.

12 Q He's a nice guy?

13 A Yes.

14 Q Honest, right?

15 A He's nice. Tommy is laid back.

16 Q He's honest, right?

17 A We would talk to him about the  
18 overtime hours, and he said that he had nothing  
19 to do with that.

20 Q Again, a wonderful answer, but not  
21 an answer to a question that I've asked, though.

22 Is he honest?

23 A Not completely.

24 Q What did he ever lie to you about?

25 A Sometimes he would say that there

1 L. N. Rodriguez

2 was no work, and there would be people working.  
3 At the beginning, I would ask him if there was  
4 work, and he would say that.

5 Q What if there was just no work for  
6 you, but there was work for other people?

7 A Yes. There were people working  
8 doing my work, and they didn't have the same  
9 union as I did. How could they do my work?

10 Q Maybe they were better at it than  
11 you.

12 A Yes. So why did I last so long  
13 there? Because they felt sorry for me?

14 Q Maybe.

15 A I don't think so.

16 Q But you don't know?

17 A If I lasted such a long time, it  
18 was because I was a good worker.

19 Q And if you stayed there for such a  
20 long time, it was because they were a good  
21 employer; correct?

22 A The same reason that -- like I  
23 said before, we were ignorant, and we didn't  
24 really know what our rights were.

25 Q But you had a union that told you



1 L. N. Rodriguez

2 all about your rights.

3 A Yes, of course, but I only worked  
4 in the union with that company.

5 Q But you were in the union  
6 from 2007; correct?

7 A Yes.

8 Q And you had a contract that  
9 covered your rights; correct?

10 A Yes.

11 Q And the union came by to make sure  
12 your rights were being protected every day;  
13 correct?

14 A Not every day.

15 Q How often?

16 A When they would call them,  
17 whenever there was a person working a machine  
18 that wasn't supposed to do it.

19 Q How often was that?

20 A Maybe once a month.

21 Q And you would tell the union if  
22 there was a man working the machine who  
23 shouldn't, right?

24 A If they asked me if he had union,  
25 and I would say that they didn't have a union

1 L. N. Rodriguez

2 card.

3 Q Right. So you never had a problem  
4 complaining to the union about the defendants;  
5 did you?

6 A Can you repeat the question?

7 Q You never had a problem  
8 complaining to the union if there was a problem;  
9 correct?

10 A I really didn't want to, because I  
11 didn't want to lose my job.

12 Q But you did every month; correct?

13 A It's just that I wasn't the one  
14 who called. Many of the people from the union  
15 just passed by the job site, and if they know  
16 that there is a nonunion worker, they call.

17 Q Right. But they came and spoke to  
18 you every month, right?

19 A Not every month. I'm giving an  
20 approximation.

21 Q So, approximately, every month  
22 they came and spoke to you; correct?

23 A Not to talk, just to make sure  
24 that everything was fine and everybody was  
25 working with the book.

1 L. N. Rodriguez

2 Q When they made sure everything was  
3 fine, they talked to you; right?

4 A They would ask me about the person  
5 that was driving the roller, whether he had  
6 union or not.

7 Q Every month, they would ask you a  
8 question; correct?

9 A That's an approximation. Maybe a  
10 month, but I don't know exactly.

11 Q So, approximately, every month,  
12 they would ask you a question; correct?

13 A Yes, the same. They would ask me  
14 the same thing.

15 Q So, approximately, every month,  
16 when you spoke to them, you never complained  
17 that you weren't getting paid overtime; correct?

18 MR. McNAMARA: Objection.

19 A No, I never told them that.

20 Q So you had no problem complaining  
21 about the other people driving the vehicles, you  
22 had no problem complaining about that, but you  
23 never felt the need to talk to them about  
24 overtime; correct?

25 MR. McNAMARA: Objection.

1 L. N. Rodriguez

2 A Yes.

3 Q Can you understand why it seems  
4 like you're lying about your claim for overtime  
5 now? You understand that; right?

6 A I'm asking for the overtime  
7 because I got tired. We decided to do this,  
8 because I got tired of everything.

9 Q But you never complained to the  
10 union, did you?

11 A No, I did not complain.

12 Q And you spoke to them,  
13 approximately, every month; correct?

14 A They would ask me every month  
15 whether that person there had a union or not.

16 Q And you never had a problem saying  
17 if a person was in the union or not; correct?

18 A No. I would tell them if they  
19 didn't have their cards, because if they found a  
20 guy without a card, I was the one who would get  
21 in trouble.

22 Q And you received a paycheck for  
23 your work every week; correct?

24 A Yes.

25 MR. ZABELL: Thank you.

1 L. N. Rodriguez

2 I have nothing further. Have a  
3 good day sir.

4 THE WITNESS: Thank you.

5 MR. ZABELL: Subject to receiving  
6 any additional documents from you, I may  
7 have to call you back, but I'm going to  
8 wait until I get those documents until I  
9 make that decision.

10 Q Do you understand that?

11 A (Nodding.)

12 Q Do you understand that?

13 A Yes.

14 MR. ZABELL: Thank you. You're  
15 excused.

16 (Continued on next page.)

17

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1 L. N. Rodriguez

2 MR. McNAMARA: I have just a  
3 couple of questions.

4 MR. ZABELL: I'm sorry. You did  
5 not cross-notice this deposition. I will  
6 not be permitting any questions.

7 MR. McNAMARA: I would like to ask  
8 questions.

9 MR. ZABELL: I have made my  
10 position perfectly clear.

11 This record is now closed.

12 (Time noted: 4:30 p.m.)

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A C K N O W L E D G E M E N T

STATE OF NEW YORK )

: ss

COUNTY OF )

I, LERLY NOE RODRIGUEZ, hereby certify that  
I have read the transcript of my testimony taken  
under oath in my deposition of September 16, 2011;  
that the transcript is a true, complete and  
correct record of my testimony; and that the  
answers on the record as given by me are true  
and correct.

\_\_\_\_\_  
LERLY NOE RODRIGUEZ

Signed and subscribed to before me  
this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public, State of New York

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11	Document consisting of a copy of Mr. Rodriguez's driver's license	11
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C E R T I F I C A T E

I, KAREN M. LaMENDOLA, a Notary Public in  
and for the State of New York, do hereby certify:

THAT the witness whose testimony is  
hereinbefore set forth, was duly sworn by me;  
and

THAT the within transcript is a true  
record of the testimony given by said witness.

I further certify that I am not related,  
either by blood or marriage, to any of the  
parties in this action; and

THAT I am in no way interested in the  
outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 3rd day of October, 2011.

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KAREN M. LaMENDOLA

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ERRATA SHEET

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